

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 30 June 2010

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE WONG YUNG-KAN, S.B.S., 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 ANDREW CHENG KAR-FOO

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

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

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

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

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

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

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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 KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

THE HONOURABLE CHAN HAK-KAN

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE IP WAI-MING, M.H.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

DR THE HONOURABLE PAN PEY-CHYOU

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBERS ABSENT:

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

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

DR THE HONOURABLE LAM TAI-FAI, B.B.S., J.P.

THE HONOURABLE PAUL TSE WAI-CHUN

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.
THE FINANCIAL SECRETARY

THE HONOURABLE WONG YAN-LUNG, S.C., J.P.
THE SECRETARY FOR JUSTICE

MISS ADELINE WONG CHING-MAN, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

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

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

THE HONOURABLE TSANG TAK-SING, J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

PROF THE HONOURABLE K C CHAN, S.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.
SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE EVA CHENG, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE MRS RITA LAU NG WAI-LAN, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

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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Hawker (Permitted Places) Declaration 2010.....	88/2010
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Other Papers

No. 102 — Airport Authority Hong Kong Annual Report 2009/10

Report No. 15/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Deposit Protection Scheme (Amendment) Bill 2010

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. Apart from the six oral questions for this meeting, I have permitted Mrs Regina IP to ask, under Rule 24(4) of the Rules of Procedure, an additional urgent question which is of an urgent character and relates to a matter of public importance.

PRESIDENT (in Cantonese): Urgent question.

Tree-falling Incidents

MRS REGINA IP (in Cantonese): *President, following the tragic tree-falling incident which occurred earlier in Yuen Chau Kok Park, Sha Tin, resulting in the death of a passer-by, a big Chinese banyan tree situated outside the entrance of the Central Government Offices (CGO), West Wing, collapsed a few days ago as it could not withstand days of winds and rain, causing injury to a passer-by and damages to properties. There are comments that the repeated occurrence of tree-falling incidents everywhere in Hong Kong reflects that serious problems exist in the management of trees by the Government, posing threats to the lives and safety of the public. Given that the rainy season has started:*

- (a) whether the Government will immediately make public the list of trees which have been identified by the authorities to be in need of further inspections, so that members of the public can take precautions; and*
- (b) as the tree outside the entrance of the CGO, West Wing, which collapsed was not on the aforesaid list, whether the Government will hire local and overseas experts to carry out inspections and monitoring of trees throughout Hong Kong, in order to prepare an accurate list of dangerous trees, thereby removing the threats posed to the public in a more expeditious and effective manner?*

SECRETARY FOR THE ENVIRONMENT (in the absence of Secretary for Development) (in Cantonese): President, I thank Mrs Regina IP for the question.

As the Secretary for Development, Mrs Carrie LAM, is now in Singapore representing the Government of the Hong Kong Special Administrative Region (SAR) at the Asia-Pacific Water Ministers' Forum and the World Cities Summit 2010, she is unable to attend the meeting of the Legislative Council today. I will give a reply here on her behalf to the question raised by Mrs Regina IP.

The SAR Government was deeply saddened by the death of Mr CHOI Kit-keung following the tree collapse incident on a cycle track in Yuen Chau Kok, Sha Tin, in the middle of this month and offered its heartfelt condolences to his family. The SAR Government also extended its best wishes to the

passers-by who were injured in the tree collapse incident occurred on Battery Path, Central, on the 27th of this month.

I now give a reply to the question raised by Mrs Regina IP on behalf of Secretary Carrie LAM as follows:

- (a) The Task Force on Tree Management led by the Chief Secretary for Administration published a report in June last year. Pursuant to a recommendation of the report, the Development Bureau, in conjunction with various tree management departments, implemented the arrangements for tree risk assessment in January this year to protect public safety more effectively. In essence, the objective of tree risk assessment is to deal with trees that may have problems at locations with high pedestrian or vehicular flow through a systematic methodology and procedures in a timely and appropriate manner, in the hope of reducing their risks to personal safety and property of the public.

Tree risk assessment is conducted step by step in two stages. In the first stage that involves an "area basis" assessment, departments will first identify those areas with high pedestrian or vehicular flow under their management. In the second stage that involves a "tree basis" assessment, departments will carry out tree group inspections at locations with high pedestrian or vehicular flow in accordance with the tree risk assessment guidelines to identify trees that are in need of particular protection, such as old and valuable trees and masonry wall trees, as well as dead trees that may pose hazards to the public and trees with obvious health or structural problems.

During tree group inspections, if departments come across trees that meet the conditions mentioned earlier, they will conduct detailed inspections of individual trees, including visual assessment, and subject to the specific conditions of trees, carry out further inspections using equipment where necessary, in order to assess the improvement measures required. After the assessment, if risk mitigation measures, such as pruning to trim tree crowns or remove dead branches, treatment of pests and diseases, and cabling and propping to support trees, are deemed necessary, departments will

take prompt follow-up work. If there are no other feasible remedial measures, departments will remove hazardous trees, so as to eliminate the threats to public safety. Regarding this assessment methodology, reference has been made to internationally recognized best practices.

Together with the tree management departments, the Development Bureau is now collating the information on trees that have undergone detailed inspections in recent months, with a view to releasing as soon as possible the information on trees that still require follow-up to the public in an appropriate manner. The Development Bureau hopes to promote community-wide surveillance by increasing the transparency of tree information or messages, thereby assisting the Government in carrying out its tree risk management work more effectively.

The information to be released by the Development Bureau shortly will include trees that have been inspected by various departments but still require improvement measures and those in need of special attention, for example, old and valuable trees and masonry wall trees. The Bureau understands the public's concern about tree safety and is now pressing full steam ahead with the collation of the relevant information, in the hope of releasing the information in mid-July.

Tree risk assessment is not a one-off exercise. It needs to be carried out continuously as an important part of day-to-day tree maintenance work. As living organisms, trees also face their own natural cycle. Their health and structural conditions change with time, the surroundings or in bad weather. After the release of the tree list, the Development Bureau will continue to liaise with relevant departments and update the information on the list from time to time. Apart from conducting tree risk assessment, during the typhoon and rainy season, the tree management departments will raise their vigilance and closely monitor the changes in the condition of trees and the level of risk to safety for appropriate follow-up actions to be taken.

- (b) At present, trees on Government land are managed in accordance with the integrated approach. In brief, departments responsible for managing the land or facilities where the trees are located are at the same time responsible for the trees on the land and facilities concerned. To ensure the quality of tree risk assessment in its implementation of the same, the Development Bureau stipulates in the guidelines issued to departments that staff members responsible for tree group inspections should have at least two years' experience in front-line tree management, as well as having received training in tree management and the supervision of tree work. Staff members responsible for detailed inspections of individual trees should possess professional qualifications conferred by arboricultural professional bodies or industry bodies (such as the Certified Arborist of the International Society of Arboriculture or Professional Member of the Arboricultural Association of the United Kingdom) or equivalent qualifications with two years' relevant experience in tree management.

Having regard to their specific operational needs, individual departments will redeploy internal staff to carry out tree risk assessment and engage non-governmental personnel to assist in undertaking the relevant work. In view of the large number of trees on Government land, we hold that this is a more pragmatic arrangement.

The SAR Government is very concerned about the tree collapse incidents that occurred recently. The Development Bureau has enhanced the co-ordination among the tree management departments and will do its best in taking precautions. In particular, attention will be paid to trees that may have problems at locations with high pedestrian or vehicular flow and follow-up actions will be taken promptly. The Bureau has already agreed with the relevant departments on the question of how the tree management work in Hong Kong can be improved expeditiously. These measures include:

- First, departments must ensure that tree management work is conducted in a professional and prudent manner. At the

same time, they should adopt such measures as close supervision, internal audit, and so on to ensure the quality of the work in question.

- Second, all tree management departments will handle tree complaint cases promptly, so as to identify problematic trees as soon as possible and take follow-up actions.
- Third, the Tree Management Office (TMO) has enhanced its monitoring of the tree management work carried out by various departments. This includes, among other things, random inspections of the tree inspection forms completed by departments and random on-site inspections of trees under the care of individual departments to assess their conditions. In cases in which problems are identified but have yet to be followed up, the TMO will urge the departments concerned to take follow-up actions as soon as possible and provide professional advice where necessary.
- Fourth, the tree management departments will monitor more closely the condition of trees during the typhoon and rainy season. Should there be any change in the risk level, immediate follow-up actions will be taken. Depending on the circumstances, if there is an absence of other feasible risk mitigation measures, arrangements will be made for the removal of trees, so as to eliminate the threats to public safety.
- Fifth, enhancement of training. When the TMO proposed the arrangements for tree risk assessment early this year, it had already provided training courses to over 2 230 government and contractor staff members. Depending on the operational needs of the departments concerned, the TMO will continue to arrange more training opportunities for tree management departments and encourage staff members at various ranks to obtain professional qualifications in arboriculture, with a view to comprehensively raising the professional standard of the relevant staff.

President, the Government fully appreciates that improving the tree management work is an important task that impacts on public safety. Hence, the Development Bureau will join hands with various tree management departments and make its best endeavours in taking forward this task.

MRS REGINA IP (in Cantonese): *President, I am very grateful to Secretary Edward YAU for providing such a detailed reply. However, he has not answered my question because according to the Government's explanation, the two trees that collapsed recently and thus caused casualties had been inspected according to the procedure several months ago and no problems were found. In other words, the visual assessment adopted by the Government has failed to keep the gate for the public, thus arousing the doubt that the Government's tree experts or contractor staff members actually have insufficient professional experience. In view of this, will the Government consider engaging other local and overseas experts to conduct an inspection all over again? In fact, we have learnt from the press that following these incidents, both the tree experts from the University of Hong Kong and those in the community have found that a number of trees have problems and may pose dangers of collapse.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Mrs Regina IP for her supplementary question and views. Certainly, I believe all members of the public in Hong Kong and even the Government or Members present here do not wish to learn of tree collapse incidents inflicting injuries to members the public. We will fulfil our duty and get this area of work properly done.

As mentioned in the main reply, a package of measures is included in the current tree inspection work. In addition to front-line officers conducting inspections, we will use if necessary other forms of technology to assist us in doing this work as far as possible. We will certainly learn from the experience and make ongoing improvements. At present, there are professional colleagues in various departments and just now, I listed the training in various areas that had been enhanced after the establishment of the TMO. We hope that after front-line and professional colleagues have acquired more knowledge and

enhanced their ability in this regard, future inspection work can be better conducted.

As to Mrs Regina IP's question about the need to introduce overseas experts, we will give it pragmatic consideration, having regard to the need. If necessary, be it local or overseas experts, we will certainly seek their assistance by all means.

MISS TANYA CHAN (in Cantonese): *President, this morning, I actually saw two sets of main reply on the table, one of which was a revised version. The only amendment lies in the reference to "the authorities have enhanced co-ordination" and I am about to ask a question about co-ordination. Why? This is because following the Yuen Chau Kok incident, to my understanding, staff members of the Leisure and Cultural Services Department (LCSD) originally remarked that that place was not under the purview of the LCSD, but rather the Highways Department. After a lapse of eight hours, the Director of Leisure and Cultural Services suddenly came out and said that it fell under the purview of the LCSD.*

The tree that collapsed off the Central Government Offices, West Wing this past Sunday, also fell under the management of the LCSD. After the tree collapse incident on Sunday, what happened on Monday then? As witnessed by my colleagues, when some LCSD staff were chopping the remaining parts of the tree concerned, suddenly, two TMO officers arrived and called a halt to their action. Subsequently, the four of them paced around the tree.

May I ask the Secretary about the co-ordination work involved? Come to think about this. Although the tree in question needed to be chopped and removed, surprisingly, the TMO officers concerned could call a halt there and then. Why was there no communication beforehand? May I ask the authorities what communication mechanism is in place between the TMO and various relevant departments? I wish to know particularly about the one between the TMO and the LCSD, for the latter is responsible for the management of 760 000 trees.

PRESIDENT (in Cantonese): Which Secretary will give an answer?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Regarding the entire mode of co-ordination, I wish to first make an explanation with reference to the concept mentioned in the main reply just now. After the establishment of the TMO, basically, it has played its co-ordination function. As Members are aware, the management of trees in various places of Hong Kong rests with various departments, having regard to their respective duties, powers and responsibilities. We hope that the setting up of the TMO can achieve overall co-ordination and planning, including the formulation of a standard or standardized approach to inspection and even the handling of complaints. As I also mentioned in the main reply just now, as various trees are located in various places, at present, the relevant departments are actually still duty-bound to do the work on an ongoing basis. This arrangement will continue.

Regarding the several cases mentioned by Miss Tanya CHAN just now, in my view, two areas of work are involved. In case of emergencies, any department will first handle them urgently. However, concerning other follow-up work, for example, the subsequent removal of broken tree branches, various departments should co-operate with one another. We will continue to adopt this approach and I also believe various departments will strive to take complementary actions. On the one hand, they will effect overall co-operation (that is, to do more in tree inspection), in the hope of pre-empting the recurrence of similar incidents in the future. On the other hand, on follow-up work, we also hope that various departments can join hands in getting the co-ordination work properly done.

MR ANDREW LEUNG (in Cantonese): *President, as the Secretary said, there are a large number of trees in Hong Kong and they will undergo the cycle of birth, ageing, illness and death. Mrs Regina IP expressed concern over the question of how the safety of the public can be assured as the rainy and typhoon season is now approaching. Given that there are only 2 000-odd staff carrying out tree inspections, has the Government considered making reference to the practice of recruiting voluntary smoke vehicle spotters adopted by the Environmental Protection Department under the purview of the Secretary and providing training to some members of the public so that they can assist in surveillance? Will the Bureau consider providing training to a group of people*

who are willing to help, so that inspections can be conducted particularly at locations with high pedestrian or vehicular flow? Once problems are found, they can telephone the co-ordinating department for instant arrangements to be made for experts to conduct inspections. This practice is relatively more effective because even though trees are inspected once every six months, in the interim, they will undergo the cycle of birth, ageing, illness and death and their withered branches may also pose dangers. May I ask the Government whether or not consideration will be given to these measures?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Thanks to Mr Andrew LEUNG for his supplementary question and suggestions. First, the current tree management work is a shared responsibility of professional and front-line colleagues in all the relevant departments. Let me cite an example. In the Agriculture, Fisheries and Conservation Department (AFCD), there are professional colleagues responsible for the maintenance of trees. However, there are other front-line colleagues who will also undertake the same work in their daily management of a certain place. Hence, the tree management work not only rests with colleagues who possess professional qualifications, front-line officers will actually do the same work. I think this also applies to the LCSD. A number of colleagues in the LCSD are doing this work and those responsible for venue management also shoulder this responsibility.

Mr Andrew LEUNG has advanced very good views. Hong Kong is a densely populated place with over 1 million trees in the urban area. If all members of the public can do more, this area of work can be better done. We have now set up the government hotline 1823. If members of the public find any problem, they can telephone us. The tree management work I mentioned just now also includes follow-up on complaints made by the public or matters of concern to them.

In addition, I have also learnt from my colleagues that there is a volunteer team in the LCSD for members of the public (for example, regular users of parks) to participate voluntarily in its work. We accept the views of Mr LEUNG and will consider how to do more in such areas as public education, publicity and involvement. This is also one of the important areas of work that the Government wishes to undertake by setting up the TMO.

MR KAM NAI-WAI (in Cantonese): *President, subsequent to the tree collapse incident that occurred some time ago in Stanley, the Chief Secretary for Administration remarked that one such accident was too many. Then, another tree collapse incident occurred in Yuen Chau Kok. The Chief Secretary for Administration said that rainy days would of course see the collapse of trees. Then the Director of Leisure and Cultural Services said that the visual assessment concerned was on a par with the international standards for the inspection of tree conditions. Now, a tree outside the CGO collapsed, which has precisely given the Government a slap in the face again. Has the so-called "visual assessment" adopted by the Government not been proved to be a total failure? Will the Government conduct a review of the visual assessment that it thinks on a par the international standards? Has a set of standards been devised for the Government's visual assessment? When will the Government make a comprehensive announcement on the so-called "list of dangerous trees"? Has the Government learnt from the experience?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, regarding the supplementary question raised by Mr KAM Nai-wai, we understand that no one in society wishes to see the occurrence of such accidents. In fact, following these accidents, the Government has actually taken some measures. Particularly, through the inter-departmental discussions led by the Chief Secretary for Administration last year, it is hoped that improvements can be made to the existing work.

Just now, Mr KAM asked a question about the methods for assessing the condition of trees. This is actually not a simple task because Hong Kong (particularly the urban area) is a densely populated place planted with a large number of trees. Such work includes the work of front-line colleagues and that of a relatively professional nature. As I said just now in the main reply, in addition to visual assessment, if necessary, we will also detect problems with the use of equipment, precisely with a view to conducting detailed examination with our professional knowledge as far as possible, so that problems can be identified.

In reply to Mrs Regina IP's main question, I already said that the authorities intended to release the list of trees on which we are now working. It will include trees that are of public concern, such as old and valuable trees and

masonry wall trees, and trees that have been inspected but still require follow-up. On the one hand, the purpose of making the announcement is to enhance transparency for the public's knowledge. On the other hand, it can enable the public to participate in the monitoring work. We hope that with this measure, our current work can be better done. I believe we will gain experience and learn a lesson, such that inter-departmental work can be taken forward.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR KAM NAI-WAI (in Cantonese): *I asked him when the list of dangerous trees would be released. President, he has not given any answer about the timing.*

PRESIDENT (in Cantonese): A date was actually mentioned in the main reply. In asking supplementary questions, will Members please refrain from asking multi-barrelled questions. Secretary, please answer.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, just now, I already mentioned the time in the main reply. We will release the list of tree management in mid-July.

MR CHAN HAK-KAN (in Cantonese): *President, I am aware of the great efforts made by the Government to achieve co-ordination, in the hope that various departments can get the tree management work properly done. However, they have overlooked a problem, that is, the shortage of manpower. In my view, the TMO is a department with only generals but no soldiers because there are insufficient front-line staff under its purview to inspect trees in Hong Kong. I have noted the fact that at present, the LCSD is the department having the largest number of staff with professional knowledge about tree management. Other responsible staff, who are scattered in various government departments, do not have corresponding and sufficient expertise to exercise management. May I ask the Government whether or not consideration will be given to forming in each*

of the 18 districts in the territory a tree management team staffed mainly by LCSD officers?

PRESIDENT (in Cantonese): Which Secretary will give an answer?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, in May this year, the LCSD established six regional TMOs in six major regions. Since then, the number of staff responsible for tree management has increased from 124 in the past to 221 at present. In each of the regional TMO, there are officers at the rank of manager and supervisor, as well as clerical staff, who are responsible for managing tree teams, co-ordinating tree maintenance work in and providing technical support for their respective regions. The regional TMOs manage a total of 33 tree teams, seven, six and 20 of which are respectively attached to Hong Kong Island, Kowloon and the New Territories. Although demarcation on the basis of 18 districts as mentioned by Mr CHAN Hak-kan is not adopted in conducting the relevant work, we will do such work in the three main regions.

MR CHAN HAK-KAN (in Cantonese): *President, may I ask the Secretary to clarify whether or not the tree teams under the LCSD as mentioned by him will undertake work in places falling out of the purview of the LCSD?*

PRESIDENT (in Cantonese): Just now, Mr CHAN Hak-kan asked about this in his supplementary question. Secretary, do you have anything to add?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, their work is mainly targeted at trees under the management of the LCSD.

MR JAMES TO (in Cantonese): *President, there are indeed reasons for the recent public discontent with the Government. For example, incidents of building and tree collapse have happened. Most importantly, the Secretary has nevertheless stated that the approach currently adopted is effective. Will you please bear in mind that regardless of whether an "area basis" or "tree basis"*

assessment is conducted as you said, what matters most is actually the "people-oriented" concept. If the Bureau checked this tree located in Central with the current approach several months ago — for the time being, I shall talk about the relevant approach and refrain from mentioning the issue of manpower — if the current approach was adopted in the check and no problems were found, similar incidents may also occur within half a year.

Will you please bear in mind that regarding the building collapse incident, one can still argue that a column of the building concerned might have been damaged by someone (although a preliminary investigation is being conducted into the incident) but this tree had not been damaged by anyone. Given that this is the case, will it still be probable for similar incidents to occur within half a year? Trees checked with the current approach may still collapse in places having high pedestrian and vehicular flows. President, should the Government examine thoroughly whether or not the existing approach is really viable? Or, what is unviable in this approach? It is not only a question of manpower, for the approach itself may actually be wrong.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, just now, I already explained in the main reply that trees might collapse for various reasons. From the Government's position, various departments hope to get the inspection work properly done by all means and the two parts of the inspection work are "people-oriented". We have proposed that risk assessment be conducted at locations with high pedestrian and vehicular flows. In case trees at these locations are found to impose risks, work will be stepped up in this regard.

To my knowledge, there are over 1 million trees in the urban area. Hence, it is not a simple task to conduct inspections. The present approach to inspection is not limited only to the visual assessment mentioned by Members. Rather, other work will be conducted or professional techniques employed. We will exert our best in such work. In this regard, in addition to making risk assessments, we also hope to see involvement of the public, who may assist in undertaking the relevant work, thereby expanding the scope of surveillance. I believe in the existing work, if there are any other professional approaches and views that can be taken on board, the relevant departments will certainly be

pleased to follow them up, so as to further enhance the effectiveness of the work in question.

DR PRISCILLA LEUNG (in Cantonese): *President, several weeks ago, Prof Patrick LAU raised a related oral question. No one could have known that shortly after the discussion on that occasion, similar incidents would occur one after another I do not wish to carry on with my remark.*

In my view, this incident has reflected certain problems in the bureaucratic system. Apart from the issues of resources and manpower, have the authorities given practical thoughts to the reasons why another accident causing serious casualties would happen, despite their rigorous actions? How should a review be conducted of the reasons why accidents still happened under the existing bureaucratic system?

PRESIDENT (in Cantonese): Which Secretary will give an answer?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Regarding these two incidents that occurred recently, one of which involved casualties, we have to await the coroner inquests for an answer. It is inappropriate for me to mention anything in this regard. However, in my view, tree collapse incidents happen for various reasons. To us, the responsibility certainly rests firmly with the Government, which must properly do its work with the maximum vigour. That said, the collapse of trees may be caused by a number of factors unrelated to the trees *per se* and even environmental factors. I believe the public and Members should look at these incidents objectively. I reiterate that government departments care about the work in this regard and they also hope to do better in the existing communication and co-ordination work.

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

DR PRISCILLA LEUNG (in Cantonese): *President, the Secretary has not given any answer at all. My question is: Under the bureaucratic system, why did the building collapse incident at 45J, the rodent problem and the tree collapse incidents all happen one after another? Secretary, it is not only about being unlucky, and I am not talking about there being other factors. I hope you*

PRESIDENT (in Cantonese): Dr LEUNG, you need only repeat the part of your supplementary question not answered.

DR PRISCILLA LEUNG (in Cantonese): *..... I hope the Secretary can give a direct answer as to how improvements can be made to the existing bureaucratic style. That is, despite the Government's rigorous actions, why is there still a lack of efficiency?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, as I mentioned in the main reply just now, according to the present approach, apart from inspection, we have actually co-ordinated the relevant work among various departments — if this is what Dr Priscilla LEUNG refers to as inter-departmental co-ordination.

Regarding the approach to inspection, at present, various departments will strive to adopt a relatively standardized and comprehensive approach to tree inspection, which applies to the tree group inspections I mentioned just now, as well as further inspections of trees.

In relation to the training provided to departments, I have mentioned in the main reply that this area of work will serve to enhance the ability of front-line and professional officers to conduct tree inspections. Over the past years, we have enhanced the training for over 2 000 staff members (including those from the Government and contractors).

When it comes to the handling of complaints, we have set up a hotline to step up the interaction with members of the public when they assist us in doing this work, and the establishment of the TMO helps consolidate inter-departmental co-ordination. Moreover, a consensus has been reached among various

departments. Their respective areas of duties and even the exchange of information among various professions have been enhanced. For example, professional colleagues from the LCSD or the AFCD will share related knowledge and render mutual help. I believe this will help strengthen the co-ordination and management work.

PRESIDENT (in Cantonese): Although a number of Members are concerned about this urgent question, we have spent more than 30 minutes on this question. Last supplementary question.

MR RONNY TONG (in Cantonese): *President, recently, I was told that seeing a tree could be likened to seeing a female, for both of them would arouse a love-fear feeling. At present, Hong Kong people actually have no confidence whatsoever in all the trees in the territory because even the one off the entrance of the CGO could collapse. I only wish to ask the Secretary a simple question. Did the authorities know that the tree in question was dangerous? If yes, why had they not notified the public earlier? If not, should the authorities devise an emergency plan for safety inspections to be conducted of all the trees located at major passageways in the territory, so as to restore the confidence of Hong Kong people? Can this be done?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the course of action proposed by Mr Ronny TONG is precisely the work we are currently undertaking. I mentioned just now that our present approach was to step up the inspection of trees at locations with high pedestrian and vehicular flows. In future, we will also release the list of trees for the public's knowledge. In case members of the public raise concern over trees at certain locations, we will take follow-up actions and carry out inspections.

MR RONNY TONG (in Cantonese): *President, the Secretary has not answered whether or not he knew that the tree off the entrance of the CGO was dangerous.*

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

MR RONNY TONG (in Cantonese): *President, my question is about the situation before but not after the collapse.*

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

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, according to the information I have in hand, no risks in this regard were detected in the latest inspection of the tree off the entrance of the CGO. Certainly, after the tree in question had collapsed, we also found some noticeable reasons preliminarily. In addition to its own problems, there were also some environmental factors, for example, several days of downpours. This is the information I have in hand.

PRESIDENT (in Cantonese): The time for Members to ask supplementary questions in relation to this urgent question ends here. If Members wish to follow it up, they will have to do so through other channels. First question.

Nuclear-related Events in Daya Bay Nuclear Power Station and its Reporting System

1. **MR TAM YIU-CHUNG** (in Cantonese): *President, a small increase in radioactivity was observed in the reactor cooling water at Unit 2 of the Daya Bay Nuclear Power Station (DBNPS) on 23 May this year. On the day following the disclosure of the incident by the media on 14 June, CLP Power Hong Kong Limited (CLP), one of the shareholders of the nuclear power station, issued a statement stating that the incident was "a minor operational incident" with no impact on public safety, public health or the environment, and as the incident was not significant enough to be classified as belonging to any of the levels under the International Nuclear Event Scale (INES) adopted by the International Atomic Energy Agency (IAEA), it was therefore not necessary to activate the reporting system. Yet, it has been reported that a member of the Daya Bay Nuclear Safety*

Consultative Committee (NSCC) has queried that CLP had underestimated the impact of the incident. In this connection, will the Government inform this Council:

- (a) when and through what channel the Government learnt about the aforesaid incident; how the Government has assessed the impact of the incident and of the assessment outcome;*
- (b) given that there have been occasional "Below Scale" and "Level 1" incidents since the commissioning of the DBNPS, whether it knows the persons who are responsible for grading such incidents; and whether the previous incidents have all been reported in accordance with the existing mechanism; and*
- (c) given that it has been reported that the deputy chairman of NSCC has openly criticized the current communication and notification mechanism between the Government and NSCC to be inadequate, whether the Government has planned to review the existing reporting system on nuclear incidents; if it has, of the details?*

SECRETARY FOR SECURITY (in Cantonese): President,

- (a) Upon receipt of a media inquiry on 14 June concerning the alleged nuclear incident that occurred on 23 May at the DBNPS, the Security Bureau immediately sought verification from the Hong Kong Nuclear Investment Co. Ltd. (HKNIC). According to the information provided by the HKNIC at that time, the DBNPS observed a slight increase in radioactivity in the cooling water in the Unit 2 reactor on 23 May. Analysis was made and the preliminary assessment attributed the event to a minor imperfect sealing of one of the fuel rods in the Unit 2 reactor. Since the reactor cooling water was enclosed by another two layers of containments and completely isolated from the external environment, the public were by no means affected. The level of radioactivity of the cooling water remained stable without any material change in the two weeks after the event. The HKNIC indicated to the authorities that they did not activate the notification mechanism because the operation of

the DBNPS had not been affected and the situation was below any rating (that is, out of scale) on the INES; the incident was only a minor operational incident without any impact on public safety, public health or the environment.

Apart from seeking verification from the HKNIC, the Security Bureau immediately requested the Hong Kong Observatory (HKO) to confirm the monitoring data concerning the radiation level in Hong Kong from the date of the event to mid-June. According to the data collected by the Environmental Radiation Monitoring Network of the HKO, there were no abnormal changes in the local radiation level in Hong Kong on or after 23 May. For example, according to the data collected at Ping Chau, which is the radiation monitoring station closest to the DBNPS, the daily average radiation levels in May were within the normal range of fluctuation. The HKO will continue to monitor the local radiation level round the clock. If any abnormality is detected, it will raise alert immediately.

In addition, the Security Bureau also contacted the Prevention and Emergency Administrative Commission Office of Guangdong Province for Nuclear Accident of Civil Nuclear Facility (PEACO, GD) to seek further information. In its reply, the PEACO, GD indicated that there was an abnormal increase in the radioactivity level of the cooling water in the Unit 2 reactor of the DBNPS on 23 May, and it had been determined that the incident was caused by a minor crack in the sealing of one of the fuel rods. The monitoring equipment at the nuclear power station recorded no abnormality in the radiation levels inside the plant or in its surrounding environment. Independent monitoring by the Guangdong authorities at the radiation monitoring points set up around the nuclear power station also did not detect any abnormality, indicating that the incident had made no impact on the environment.

- (b) The INES was drawn up by the IAEA to establish an internationally recognized standard for facilitating better understanding by the public, media and the nuclear industry of the degree of significance of nuclear events. International nuclear events are classified from

Level 0 to Level 7. Any events that come within the classification of the INES are considered Licensing Operational Events. Level 0 is also known as "Below Scale" events, which implies that the incident has no safety significance. Levels 1 to 3 events are regarded as "incidents", which have very little or no impact to the environment. Levels 4 to 7 are regarded as "accidents", representing various degrees of radiological impact. As for events outside the INES (that is, "out of scale" or below Level 0), they do not have any relevance to safety. The INES classification takes into account many factors, including any degradation of safety protection measures, the integrity of radiological barriers and control devices, as well as the impact on the public and the environment.

According to the HKNIC, the DBNPS also adopts the INES rating system. In case of a Licensing Operational Event (that is, events at Level 0 or above), the DBNPS shall, in accordance with Mainland statutory requirements, report the event to the relevant state regulatory body, namely the National Nuclear Safety Administration (NNSA). The NNSA will handle the matter accordingly, including examining and confirming the contents of the report and the rating of the event. The HKNIC also indicates that the NNSA has a number of inspectors stationed on-site at the DBNPS to monitor the plant's operation and performance.

The HKNIC indicated clearly to the authorities that the situation on 23 May has not reached the conditions for classifying it as a Level 0 event, and that the event has no relevance to safety.

There are two aspects of the current notification mechanism. On one hand, the operator of the DBNPS will notify the HKNIC of any Licensing Operational Event. The HKNIC submits monthly reports of Licensing Operational Events to its Board members, which include representatives of the Environment Bureau and the Security Bureau. The HKNIC also uploads such information on its website for the public's reference.

On the other hand, the HKSAR Government and the Guangdong authorities have established an official notification channel. In

simple terms, the PEACO, GD is responsible for co-ordinating contingency actions to be taken by various Guangdong authorities in response to events at the DBNPS. In case of a contingency event or accident at the plant, the DBNPS operator will inform the PEACO, GD and other relevant state organizations immediately. The PEACO, GD will notify Hong Kong in accordance with the contingency notification arrangements agreed between the two sides.

Apart from the existing notification mechanism, the Hong Kong authorities have also set up its own warning system to obtain first-hand information. One of the major components of this warning system is HKO's Environmental Radiation Monitoring Network mentioned above, which comprises 10 radiation monitoring stations for recording ambient gamma radiation levels. An alarm will sound at the HKO Headquarters if there is any abnormal change of the ambient radiation level at any one of these stations. In addition, the Water Supplies Department (WSD) operates two identical on-line Water Contamination Monitoring Systems at the Muk Wu Pumping Station to monitor incoming drinking water from Guangdong Province. The alarms at the HKO and the WSD will sound if there is any abnormal change in the radiation level.

Furthermore, an unscheduled power interruption at the DBNPS may indicate the occurrence of an abnormality at the power plant, though this does not necessarily mean a nuclear event. If such power interruption occurs, apart from being notified by the DBNPS, the System Control Centre of CLP will also be able to detect it immediately through its own monitoring system. CLP will alert the Electrical and Mechanical Services Department and the HKO in accordance with the established notification mechanism.

Once alerted, the departments concerned will follow relevant procedures and review their monitoring data immediately. They will also seek verification from relevant authorities, assess the situation, and assist the Security Bureau in deciding whether to activate the corresponding level of the contingency plan.

- (c) The authorities will review the existing arrangement for handling nuclear events and the notification mechanism with a view to strengthening co-ordination with all concerned parties.

Members of the NSCC, including local professionals, doctors and academics, joined the Committee at the invitation of the Daya Bay Nuclear Power Operations and Management Co., Ltd (DNMC). The major responsibilities of the NSCC are to discuss plans and implementation reports for safeguarding nuclear safety in the course of plant operation and power station construction, and to give advice and recommendations on nuclear safety.

The DNMC has already set up an expert group to conduct a follow-up investigation on the event. The HKNIC has also undertaken to submit detailed investigation findings to the HKSAR Government. The authorities will continue to closely monitor the situation. We have also invited representatives from CLP to attend the meeting of the Panel on Security of the Legislative Council on 6 July to provide Members with further information.

MR TAM YIU-CHUNG (in Cantonese): *President, in part (c) of the main reply, the Secretary has mentioned that the authorities will review the existing arrangement for handling nuclear events and the notification mechanism, and hope to strengthen co-ordination with all concerned parties. May I ask the Secretary when the review will be completed, and whether he will at the same time consider appointing experts or representatives from relevant departments of the SAR Government to participate in the work of the NSCC? Will their participation make any contribution or help in this respect? As the current composition only comprises professionals or doctors of Hong Kong society, will it be helpful to include expert representatives from relevant government departments?*

SECRETARY FOR SECURITY (in Cantonese): President, as regards the timetable, we also hope that it can be completed as soon as possible. We are now unable to tell Mr TAM whether it is next month or the month after it, but we have contacted the relevant authorities. In fact, the current notification

mechanism for nuclear events has been operating very well basically. So far, the DNMC is very well operated. However, what does this event reflect? That is, how can relevant authorities enhance the transparency of events which do not fall under the scope of nuclear incidents nor amount to the so-called nuclear incidents (that is, below Level 0)? We are now in talks with CLP and the DNMC in this respect. We hope that the PEACO, GD can conduct further negotiations on the possibility of enhancing the transparency of the notification mechanism with a view to disclosing more information to the public.

Part (b) of Mr TAM's question is about the NSCC. Members of the NSCC join it at the invitation of the DNMC. It is a Mainland organization, not an organization under the Hong Kong Government. Therefore, we cannot request participation as we please. Of course, if officials of the Hong Kong Government are invited to join it, we will give it consideration.

MISS TANYA CHAN (in Cantonese): *President, I noted that in the last part of the main reply, it was mentioned that the original committee would — President, excuse me, please wait — the DNMC has set up an expert group. As it is responsible for selecting members to the NSCC and subsequently the expert group, may I ask if we can set up a truly independent expert group, or even enlist the help of overseas experts, to conduct a completely independent investigation, and review the whole notification mechanism of Hong Kong incidentally?*

SECRETARY FOR SECURITY (in Cantonese): Members must understand that the DNMC is basically a Mainland company, not a Hong Kong company, nor an organization under the Hong Kong Government. Therefore, we or Hong Kong people can convey whatever requests to it, but we cannot make requests as regards whom it should appoint to the NSCC. Moreover, academics, doctors, scientists and other environmentalists are among the appointees. In fact, the NSCC is already an independent committee.

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

MISS TANYA CHAN (in Cantonese): *If the practice were credible, there would have been confidence in it. However, the current situation is that an event has happened and no notification has taken place. May I ask if an independent group will be formed, or external experts will be engaged?*

PRESIDENT (in Cantonese): Miss CHAN, I think the Secretary has already answered it.

DR MARGARET NG (in Cantonese): *President, the impact of any event that happens at the DBNPS on the safety of Hong Kong people can be grave, so how can the Secretary say that this is under the charge of a Mainland company which we cannot join as we please? This is of course the fact, but I think that the crux of the issue lies in the confidence of members of the public in the notification mechanism.*

I am also asking a question about part (c) of the main question: Why does it seem that Hong Kong does not have a non-official, nor an independent committee as mentioned by Miss Tanya CHAN, that can be involved in the notification mechanism? Why did Hong Kong people remain ignorant of the event that had happened on 23 May until 14 June? President, had there really been a problem, we might all have died already. Therefore, may I ask the Secretary for Security why we do not have an independent non-official who can be involved in the notification mechanism from the perspective of Hong Kong, with a view to protecting the safety of Hong Kong people? Why is a Mainland company entrusted to involve some people in the notification mechanism? How can the Government rest assured of it?

SECRETARY FOR SECURITY (in Cantonese): President, I fully agree to Dr Margaret NG's remarks that both Hong Kong people and the Hong Kong Government will be very concerned about any nuclear event that happens at Daya Bay. This is precisely the reason why we have a notification mechanism for nuclear events in place. It is an internationally recognized mechanism drawn up by the IAEA under the United Nations, with event Levels ranging from 0 to 7. There has been no problem in the operation of the mechanism, and we have not had any problem over the past decade or so. The current event does not fall under the scope of nuclear incidents. Nor does it amount to the level of nuclear

incidents by international standards. There have been minor operational problems, which we have always mentioned. Can the DNMC be more proactive in respect of transparency and information dissemination? In this respect, we are now in talks with the DNMC on how best the practice of notification can be improved, with a view to giving people access to such information.

Dr Margaret NG mentioned an independent committee just now. In fact, the NSCC, whose members are appointed by the DNMC, is also an independent committee, which is not open to Hong Kong officials. We do not have any officials as its members. Its members include certain independent persons in Hong Kong, such as academics, scientists, environmentalists and doctors. If Dr Margaret NG means that these well-known personalities and academics in Hong Kong are not credible enough, is it the case that the NSCC will remain incredible unless persons deemed credible by Dr Margaret NG are appointed as members? In this respect, I have just now said that as the DNMC is neither a company under the Hong Kong Government nor a Hong Kong company, we have no power over appointment, which is within its power. Of course, we will also be very concerned about any nuclear event that may happen.

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

DR MARGARET NG (in Cantonese): *No, it has not been answered. My supplementary question is: Why is there not a committee or organization in Hong Kong comprising non-officials to help monitor this notification mechanism? President, this is because Hong Kong can be affected. The Secretary has now said that members of the NSCC are not appointed by Hong Kong. My question to the Secretary is not on why there is no power to appoint non-Hong Kong members to the NSCC. My question is: Why is there not a similar regulatory body in Hong Kong comprising non-officials to help monitor this notification mechanism?*

SECRETARY FOR SECURITY (in Cantonese): President, if there is a regulatory body in Hong Kong comprising non-officials, where can it obtain information? It is viable only when there is an organization to which the DNMC

can provide information. Dr Margaret NG has pointed out that information can be obtained from the DNMC by setting up an organization on its own. We have heard Dr Margaret NG's opinion, which we may reflect to the DNMC. We can convey Dr Margaret NG's opinion on how to improve this mechanism.

DR MARGARET NG (in Cantonese): *President, I hope that when Members are asking questions sincerely, officials should not take this opportunity to satirize them. Please do not do it. The Secretary has not answered my supplementary question, because official agencies in Hong Kong will receive notification and obtain information. So my question is: Why is a notification mechanism involving non-officials not set up in Hong Kong?*

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

SECRETARY FOR SECURITY (in Cantonese): President, I have nothing to add.

PRESIDENT (in Cantonese): There are eight Members waiting for their turns to raise questions, but this Council has spent more than 21 minutes on this question. I will allow one more Member to raise a supplementary question.

MR ALAN LEONG (in Cantonese): *President, I have heard the Secretary's reply, which makes me shudder, because the Government should at least protect the safety of Hong Kong people. Even though it does not protect the safety of Hong Kong people, it should protect that of the Secretary. According to my information, on 23 May, there was a minor crack in the sealing of a fuel rod at the DBNPS. President, you should have heard of it. However, Secretary Edward YAU visited Daya Bay on 26 May. Even if the Government did not protect the safety of Hong Kong people 50 km away from the nuclear station, the Secretary should have been aware of the event upon arrival. Therefore, I would like to put this question to the Secretary for Security: Do you think that the HKSAR Government is duty-bound to protect Hong Kong people against nuclear*

radiation? If yes, how are you going to discharge that duty when the NSCC is currently not obliged to report to the HKSAR Government?

SECRETARY FOR SECURITY (in Cantonese): President, in my reply to Dr Margaret NG, I said that the HKSAR Government (of course including me and Mr LEONG) would pay attention to and be concerned about any nuclear event that may happen at the DBNPS. Therefore, since the first day of its operation, we have had in place a notification mechanism for nuclear events, which has been operating well throughout the years. The current event does not fall under the scope of nuclear incidents. It relates only to operation, and it does not amount to the level of nuclear incidents by international standards. Also, the event does not have any adverse impact on safety, the environment or any person. Therefore, Secretary Edward YAU's health was not affected during his visit to the nuclear station on 26 May. I think that the current notification mechanism for nuclear events is effective. As of today, Hong Kong is very safe, so are Guangdong Province and the neighbouring areas. However, what problem does this event highlight? That is, how can we enhance the transparency of events which neither fall under the scope of nuclear incidents nor cause any impact on safety and the environment, such that members of the public can rest assured? We are following up with the DNMC in this connection.

PRESIDENT (in Cantonese): Second question.

Transfer of Hong Kong Residents from the Mainland to Hospitals in Hong Kong

2. **MR CHAN KAM-LAM** (in Cantonese): *Under the existing arrangements, if Hong Kong residents who are taken ill or injured on the Mainland wish to be transferred by ambulances back to Hong Kong for treatment, prior co-ordination has to be made between the medical personnel in Hong Kong and on the Mainland before they travel in Mainland ambulances to the boundary control points where they change to travel in Hong Kong ambulances to the hospitals. Some members of the public have pointed out that while it takes only some 10-odd minutes to change from one ambulance to another, the movement may aggravate*

the conditions of the patients and even delay treatment. In this connection, will the Government inform this Council whether:

- (a) it knows the number of cases of Hong Kong residents being transferred by ambulances from the Mainland back to Hong Kong for treatment in each of the past five years;*
- (b) it has assessed the impact caused by the transfer from one ambulance to another on the conditions of the persons concerned; and*
- (c) the authorities will consider introducing a pilot scheme in the Pearl River Delta (PRD) cities to allow Mainland hospitals to transfer in ambulances Hong Kong residents who are taken ill or injured direct to the hospitals in Hong Kong for treatment?*

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

(a) and (b)

The Hospital Authority (HA) mainly provides medical services for the public in Hong Kong. It does not provide patient transfer service across the border.

Hong Kong residents who are injured or suffering from an acute illness in the Mainland and require ambulance service upon returning to Hong Kong may call the Immigration Department's hotline at 1868 to make the request. They may also request assistance from the officers of border control points upon arrival or call the hotline at 999 to seek help during emergency. The departments will strive to provide assistance. Based on the established arrangement between the Fire Services Department (FSD) and the HA, ambulances will transfer the residents from the control points to the Accident and Emergency Department of a nearby HA hospital for treatment. According to the figures provided by the FSD, over 70% of the calls made at control points in 2008 and 2009 were from the Lok Ma Chau and Lo Wu control points and the patients were transferred to

North District Hospital for treatment. The remaining calls were mainly from the Shenzhen Bay control point and the patients were transferred to Tuen Mun Hospital for treatment.

According to the information provided by the FSD, the numbers of transfer of patients by ambulances from border control points to HA hospitals in the past five years and the first four months of this year are set out below:

2005	5 411 cases
2006	5 220 cases
2007	5 833 cases
2008	5 950 cases
2009	5 736 cases
January to April 2010	2 033 cases

Patients transferred from the Mainland to Hong Kong are mostly in stable condition. In general, their condition would not be significantly affected as they change from one ambulance to another at the control points

- (c) The HA has been maintaining exchanges and co-operation with the health authority of Shenzhen in different aspects of hospital services. Both sides have discussed the strengthening of communication between hospitals in the two places for transfer of patients, and the arrangements to facilitate referral of Hong Kong residents from the Mainland to public hospitals in Hong Kong for further treatment. Both sides have initially agreed to implement the transfer of patient records on a pilot basis. The idea is that designated hospitals in Shenzhen and Hong Kong will work in co-ordination. When a Hong Kong resident in a designated hospital in Shenzhen requests to be transferred to Hong Kong for treatment, the hospital in Shenzhen will pass the patient's information, clinical history and medication record to the designated hospital under the HA to facilitate direct liaison between medical personnel in the two places for follow-up on the patient's case. The HA initially considers selecting North District Hospital and Tuen Mun Hospital as the designated hospitals under the arrangement. At the present stage, the abovementioned

arrangement for transfer of patient record will only be applicable to patients on a voluntary basis and who are in stable condition. The HA is working with the relevant departments in Shenzhen to finalize the detailed arrangements for the transfer of patient record. It is expected that the arrangement could be piloted before the end of this year.

Besides, Hong Kong residents living in the Mainland may also seek specialist consultation in public hospitals/clinics in Hong Kong upon referral by a Mainland doctor. As for direct transfer of patients from the Mainland to Hong Kong, given that the present arrangement is able to cope with the demand in general, and that the introduction of direct transfer service would involve complicated issues such as regulation of cross-boundary vehicle and ambulance service, the Administration has no plan to pilot such service at the present stage. The Administration will however continue to monitor closely the utilization of cross-boundary transfer service of patients.

MR CHAN KAM-LAM (in Cantonese): *President, it is evident in the Secretary's main reply that a very large number of patients will require transfer service every year. While these patients are mostly in stable condition, this illustrates that there are always some urgent cases which require the so-called seamless transfer.*

President, there was a case last week in which a Hong Kong resident had his finger cut off in Shenzhen, and thus required transfer to Hong Kong for a replantation operation. However, because of delay during the transfer, the severed finger tissue was dead on arrival at the hospital and could not be reattached. Such a situation precisely illustrates some problems with the transfer arrangement at the control points, which fails to exemplify the "people-based" policy.

President, the Secretary said in the last paragraph of the reply that the introduction of direct transfer service would involve complicated issues such as regulation of cross-boundary vehicle and ambulance service. May I ask what really are those complicated issues and regulation problems involving such a

difficulty that can override the lives of patients and the need to provide them with treatment?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we are of course concerned about the handling of patients with acute illness or in critical condition. In general, even in Hong Kong, communication is needed between the medical personnel in the transfer of patients from one hospital to another in order to know the patient's condition, as problems encountered during the transfer in an ambulance may not be easy to handle. So, it is of the utmost importance that the medical personnel of both sides must first communicate with each other so as to gain an understanding of the patient's condition before making appropriate arrangements to transfer the patient from the Mainland back to Hong Kong. We do not encourage transfer of patients who are in critical condition as we may not be able to carry out the necessary procedure or operation even under the escort of medical personnel if problems occur during the transfer.

Why can ambulances not transfer patients across the border? In November, we had also replied to a similar question. At that time, the Secretary for Transport and Housing said that the two places had different regime in the regulation of ambulances. Ambulances in Hong Kong may not be able to operate as such in Shenzhen or Guangdong Province, so are Mainland ambulances travelling to Hong Kong. How can we address the problem effectively? Both sides have to communicate with each other and know clearly the pros and cons before taking any action.

As such, I think the most important issue lies not in the need or otherwise to change to another ambulance. I believe the transfer of patients from one ambulance to another does not take much time, and the impact thus caused is small. Instead the question remains whether the patient is suitable for transfer, and whether he is escorted and looked after by qualified medical personnel during the transfer. The patient's condition and the co-ordination between the hospitals of both sides are therefore of the utmost importance. I have just said in my main reply that the HA and the Shenzhen authority are discussing matters in the hope of strengthening mutual communication in this regard, so that patients can be appropriately transferred back to Hong Kong. Likewise, patients from the Mainland also require similar services when they go back to the Mainland after receiving treatment in Hong Kong.

MS STARRY LEE (in Cantonese): *President, the Secretary said in his reply earlier that special treatment will be provided to patients with acute illness or in critical condition. I am also aware of the recent press report that a patient's severed finger could not be reattached. Regarding this case, the patient knew he was in serious condition, and his family members in Hong Kong had requested the Administration to dispatch an ambulance to await him at the border. However, given that there is no arrangement for dispatch of ambulance to a place to await a patient, a request for ambulance service can only be made after immigration clearance at the control point. In this case, the patient had waited for 16 minutes before the arrival of an ambulance, and then it took another 22 minutes to send him to the hospital, and hence the finger could not be reattached eventually.*

President, may I ask the Secretary whether the Administration has put in place practical guidelines to instruct ambulance crews to provide special treatment to patients with acute illness or in critical condition? If yes, what are they? Moreover, why did this case not qualify as an acute or critical illness, thus rendering it impossible to reattach the patient's finger eventually?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, I do not have detailed information on this case for analysis. As a surgeon, I had done operations to reattach dismembered limbs. Whether or not a finger can be reattached depends on a number of factors. A lapse of 10 to 20 minutes does not matter very much. The problem rather lies in how the severed finger is handled, for example, whether it is transported in a frozen manner and how the finger is severed, that is, the condition of the tissue of the affected part. I should not continue to discuss the case here, but I think it warrants a review. What really matters is how the ambulance crews determine whether a case is urgent or not when they learn of it. If the hospitals of both sides can communicate with each other, for example, the hospital in Shenzhen may make an early call to the hospital in Hong Kong requesting a replantation operation for severed limbs, HA colleagues may be able to discuss how to deal with the case with the FSD. I think problems of this sort can be reduced if there is clear communication on all sides.*

MS AUDREY EU (in Cantonese): *President, last November, when I raised a question on cross-boundary ambulance service, the Secretary simply did not reply to it. Today, the Secretary also said in the last part of his reply that the existing arrangement can basically satisfy the service demand. In the discussion on the integration between China and Hong Kong, the Secretary said he was aware of the actual need for cross-boundary ambulance service, and saw that many private vehicles were disguised as ambulances in disguise — this was the question I raised in November — in advertisements selling such "ambulance service".*

I think it is most appropriate for the Secretary to give reply as he is also responsible for matters concerning food. I wish the Secretary to explain to us why for so many years he has still not tackled the need of patients for cross-boundary ambulance service which is also essential to the integration between China and Hong Kong, while there is cross-boundary transport service for the shipment of vegetables and pigs. When I raised the question in November, he still said there was no such need. In replying to this question today, he also said this is basically not a problem and no action would be required. Can the Secretary explain to us why cross-boundary ambulance service is not provided to patients while pigs and vegetables can be transported by vehicles across the border? President, what are the difficulties?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, I have explained many times that patients cannot be mentioned in the same breath as vegetables and pigs as different patients have different needs, and their conditions also differ. Nobody will care if pigs die in the course of transportation. But if any accident occurs during the transfer of patients, very serious professional liability will be involved. For this reason, speaking of the ambulances, we must be very careful in dealing with the professional standard and regulation of the registered ambulances and their crew members of both sides. These issues that we have to deal with cannot simply be likened to the transportation of goods or foods.*

MS AUDREY EU (in Cantonese): *He has not answered my supplementary question.*

PRESIDENT (in Cantonese): What is your follow-up question?

MS AUDREY EU (in Cantonese): *President, I have just said the patients are more in need of such cross-boundary service. My supplementary question is: as the person in charge of the medical services, that is, the safety of patients, the Secretary is aware of such need and the phenomenon of substandard private "ambulances" providing the service, so why can he not discuss the provision of cross-boundary ambulance service with the Mainland so that professional personnel can be deployed for the transfer of patients from one place to another, thus obviating the need the patients to wait at the border? While animals can have such service, why can we not provide it to patients in need?*

PRESIDENT (in Cantonese): Ms EU, you have put it very clearly. I wish to emphasize once again that the question session is not intended for Members to debate. On this issue, I think the Secretary has already given an answer in respect of the Administration's existing policy. Secretary, do you still have anything to add?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I wish to emphasize again that the regulation regimes are different in both places, so we must make some arrangements before we can provide the professional service. We cannot do so haphazardly, thus we are doing it step by step now. First, we need to strengthen communication and understanding between the medical personnel of both sides. We cannot perform the task if there is no exchange of patient record between both sides. Therefore, we have to work out some arrangements for the exchange of patient record first.

Second, I have to emphasize that the so-called Mainland "ambulances" so advertised in Hong Kong as mentioned by Ms EU earlier are not ambulances, but some commercial vehicles providing transport services, which cannot be treated as ambulances.

MS AUDREY EU (in Cantonese): *President, I have said that they are used as "ambulances" in disguise but actually not ambulances. My supplementary question is: why does the Government not provide the relevant service?*

PRESIDENT (in Cantonese): Ms EU, as I said earlier, I believe the Secretary has clearly explained the Government's policy. You may follow up this matter on other occasions if you are still not satisfied.

MR IP WAI-MING (in Cantonese): *President, given the Secretary's logic, we simply will have nothing to ask. Secretary*

PRESIDENT (in Cantonese): Mr IP, do you not understand the nature of the question session? I have said many times that the question session is not intended for debate. The public officers will give replies in the light of the existing policy. If Members are still not satisfied, they may follow up the issue in the panels or through other channels, but they cannot debate what the Government has said on the existing policy in the question session.

MR IP WAI-MING (in Cantonese): *President, we wish to ask*

PRESIDENT (in Cantonese): There are six questions in each Council meeting, and I do not think Members consider it not useful to ask these questions. So, Members should make themselves clear of the nature of the question when asking their questions. You may now ask your supplementary question.

MR IP WAI-MING (in Cantonese): *Thank you, President. In the Secretary's main reply, we can note in the figures for the period from 2005 to the first four months of this year that there is an average of more than 5 000 cases each year, and the figure even reached almost 6 000 cases in 2008. In the first four months of this year, there are already over 2 000 cases. I think what colleagues have been asking is: as the Secretary has said earlier that research on the professional standard of medical institutions and the regulation of ambulances in both places*

is already underway, and he has also listed the many difficulties involved, when can we actually have access to cross-boundary direct ambulance service against this backdrop of incessantly rising figures? Has the Secretary already examined within initiatives to solve the problem?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, first of all, I have to correct, if I may, the view of Members. When we transfer a patient from one place to another, it is not a simple issue of transportation. During the course of this transfer of a patient to the destination, we have to maintain him in a safe and stable manner without any mishap. Therefore, the means of transport is one consideration, but the most important consideration is we have to transfer the right patient to the right place. It is not the case that the problems will be resolved just with the availability of these vehicles. So, we must select patients who are in stable condition, that is, those whose condition, we think, will not deteriorate within a short time, for transfer. We will not claim the task accomplished even if the patient has been carried on board the ambulance during an emergency. We must be very careful in getting the job done.

The same also applies to the transfer of patients from one hospital to another in Hong Kong as we cannot haphazardly dispatch ambulances to send patients away and place them under the care of others. This is not our approach to solving the problem. Therefore, we must first put in place measures to strengthen professional communication and administration so as to ascertain whether the patient is suitable for transfer. Though very large these figures are, we know that most of the patients were in stable condition and suitable for transfer. As such, not a single problem has arisen as regards the turnaround time and the change of ambulances.

Speaking of cross-boundary ambulances, we must be very careful in dealing with them. The ambulance drivers must know how to deliver patients to different hospitals within a short period of time. In the Pearl River Delta Region, there are nearly a total of in Guangdong Province alone, there are already more than 1 000 hospitals. Do these ambulance drivers really know the places they have to speedily get to as soon as possible with sirens on? In Hong Kong, do we permit these Mainland drivers and vehicles with flashing sirens dashing speedily on our streets? These are issues we need to consider. We have already in place transportation service for patients, which can be used only when the patient is in stable condition. We think we must first address the issue

of professional communication and co-operation before we proceed to further consider implementing other complementary measures.

DR LEUNG KA-LAU (in Cantonese): *Secretary, whether or not a patient is suitable for transfer is a professional decision to be made by doctors, not by the Government. When such a need arises, the Government has to provide support service for transfer of the patient. Before the transfer, the patient will be examined by a doctor and then transferred only if deemed suitable by the doctor. But the existing problem is that the Government does not provide such service even if the patient is suitable for transfer after an examination by doctors.*

The Secretary has said earlier that co-operation is required from both sides on the issue of transfer between the two places, which involves very complicated procedures. I have a fairly simple request. Can Hong Kong draw up its own local standards, such as the professional standard, insurance standard and transport standard, in order to allow the operation of commercially-run ambulances for which licences are issued in Hong Kong? At least we can first implement the local standards in this aspect, and then discuss with the Mainland subsequent to the launch of such commercially-run ambulance service. As Ms Starry LEE said earlier, with this commercial operation in Hong Kong, patients no longer need to wait for ambulances and they can make calls for ambulances to await them. In this way, a lot of time can be saved. The question is therefore very simple. Can the Government draw up the standards for the operation of commercially-run ambulance service in Hong Kong? With these local standards in operation, we may then consider how to communicate with the Mainland.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): As far as I know, there is now no plan to consider launching any commercially-run ambulance service in Hong Kong. According to the information provided to me by the Transport Department, there are now more than 300 ambulances in Hong Kong, all under the ambit of the FSD. Besides, each of the Auxiliary Medical Service and the St. John Ambulance has more than 10 ambulances which will provide transfer service at the request of the public. As I said earlier, the most important question is: do we allow ambulances of places other than Hong Kong dashing speedily in Hong Kong without concern about safety and other issues?

Furthermore, ambulance crews are now trained by the Government, and they are not allowed to go into private practice like doctors. Therefore, we also have to consider how the practice can be extended.

Hence, we must conduct a careful analysis of all aspects before we can launch such service. However, I have to emphasize — I trust Dr LEUNG should also know — that if a Hong Kong resident falls ill on the Mainland and has to come back to Hong Kong urgently, special arrangements can be made with some institutions for transfer of the patient who is in urgent condition back to Hong Kong under the escort of medical personnel.

PRESIDENT (in Cantonese): We have spent nearly 24 minutes on this question. Third question.

Road Safety Affected by Road Maintenance Works and Traffic Signs

3. **MR IP KWOK-HIM** (in Cantonese): *President, it has been reported earlier that the underframe fuel pipes of two buses fractured after the buses were driven one after the other over the same section of a road which was covered temporarily with steel plates, and it is suspected that the fractures were caused by the pipes being hit by the steel plates which bounced up. Also, at the end of last month, the windshield of a private car was punctured by a piece of metal strip which was swept up from the road surface by the preceding car. Moreover, I have also received complaints from quite a number of motorists pointing out that quite a number of traffic signs have been erected or placed at inappropriate locations (for example, signs advising motorists to make a turn are placed too close to the lanes), unclear or obstructed by trees, thus increasing the risk of traffic accidents. In this connection, will the Government inform this Council:*

- (a) *of the number of cases of damaged road surface found by the authorities and the number of relevant complaints received from members of the public in the past two years, as well as the average time taken by the authorities to handle such complaints;*
- (b) *what specific safety standards are currently adopted by the authorities for the installation of temporary facilities (including the*

steel plates covering potholes and stabilizing structures, sign plates for road maintenance works, fences and traffic cones, and so on) during street excavations carried out by government departments as well as public and private organizations, and what measures they have in place to ensure that all temporary facilities within the works areas comply with the safety standards; of the number of cases involving the breach of safety standards found by the authorities in the past two years and the follow-up actions taken; and

- (c) *of the number of complaints received from members of the public in the past two years about traffic signs being erected or placed at inappropriate locations or having unclear instructions and, among them, the number of those in which follow-up actions were required, and the average time taken to handle such complaints?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President,

- (a) With more than 570 000 vehicles running along a total length of 2 000 km of public roads, the road utilization rate in Hong Kong is among the highest in the world. To protect the safety of road users, the Highways Department (HyD) has put in place arrangements for regular inspections of public roads across the territory to ensure that they are kept in good condition. Regular inspections can be broadly divided into two types: the first type is "safety inspections" which focus on the safety aspects of roads; the second type is "detailed inspections" which facilitate the mid- and long-term planning of repair works.

The purpose of conducting safety inspections is to identify damages which pose threats or cause inconvenience to the public to allow for prompt repairs. The frequency of the inspections depends on the road type concerned: expressways carrying high-speed and heavy vehicular traffic are inspected daily, major trunk roads and other urban trunk roads are inspected weekly, while the remaining roads are inspected once every one to three months. The HyD will arrange repairs immediately when damages to road are identified so

as to keep the roads in good condition and ensure the safety of road users. As regards detailed inspections, they are conducted on each road roughly on a biannually basis to help the HyD collect data on road surface condition and road structure for mid- and long-term planning of repair works. This in turn facilitates systematic maintenance for preventive purpose.

Separately, the HyD has set up a hotline and also liaised closely with other government departments and the 1823 Citizen's Easy Link to receive from various channels reports on damages to roads or relevant facilities for arrangement of repairs to further protect road safety.

In the past two years, the HyD identified about 2 700 cases of road damage during safety inspections and detailed inspections. Breaking down by region, there were about 800 such cases on Hong Kong Island, 700 in Kowloon and 1 200 in the New Territories. During the same period, the HyD received about 1 400 reports of road damage from the public and 75 cases of defective road surface referred by other departments. Over 90% of the above cases involved local damages which had minor impact on road condition and posed no immediate danger to the traffic. Upon receiving reports on road damages, the HyD will arrange repairs promptly. In most cases, repairs can be completed within 24 hours.

- (b) For excavation works on public roads, to minimize the impact of the works on the public and traffic, the HyD has set up the excavation permit system to effectively manage and co-ordinate excavation permit applications from the promoter of the excavation works (the promoter), so that the works are carried out in a manner that is orderly and in accordance with public safety.

Before carrying out any excavation works, the promoter is required to apply to the HyD for an excavation permit. The conditions of such permits stipulate that the promoter shall, during the course of the works, follow the Code of Practice for the Lighting, Signing and Guarding of Road Works (the Code) compiled by the HyD and place temporary traffic signs and facilities properly in accordance with the

Standard Drawings of the HyD. For example, adequate warning lanterns, traffic signs and guarding equipment should be installed during the course of the works. And all obstructions and excavations on public roads should be well guarded at all times (such as providing sufficient lighting, and erecting traffic signs and barriers, and so on) to protect the safety of road users.

Moreover, if the works involve temporary traffic arrangements, the promoter shall submit the proposed temporary traffic arrangements to the Transport Department (TD) and the Hong Kong Police Force for approval before the works commence, so as to ensure that the works will not affect the traffic seriously.

On the other hand, to ensure that the promoter follows the relevant requirements in implementing the works, the HyD also conducts unannounced spot-checks of the excavation sites. In case of non-compliance, a notice will be issued to the holder of the excavation permit (the permittee) to require prompt rectification having regard to the actual circumstances. If there is no improvement, the HyD will consider initiating prosecution action under the Land (Miscellaneous Provisions) Ordinance. Moreover, if there is actual need, the HyD may also take the improvement measures required and recover the cost from the permittee under the provision of the Ordinance.

In the past two years, the HyD conducted about 201 000 inspections of excavation works in progress. Most sites were found to be in compliance with the requirements. The percentage of non-compliance which involved the placing of steel plates, erection of trench shoring and installation of temporary road closure facilities was less than 1%. In respect of the non-compliance cases, the HyD issued a total of 2 869 non-compliance notices to order the permittees and contractors concerned to rectify the non-compliance items immediately. Among them, the HyD served summons in 78 cases on parties concerned who failed to take improvement measures as required. Prosecution was successful in all the cases.

- (c) The TD does not keep statistics on the number of complaints about traffic signs being placed at inappropriate locations or unclear signage, or on the time taken to handle such complaints. Given the limited time available, the TD has reviewed the complaint records for the past three months. The records show that an average of 13 complaints concerning traffic signs were received per month. About 40% of them required follow-up actions, such as arrangements made by the TD to remove objects obstructing traffic signs, add/replace traffic signs, relocate traffic signs, and amend the contents of traffic signs, and so on.

MR IP KWOK-HIM (in Cantonese): *In his main reply, the Secretary has put strong emphasis on road safety which is ensured by safety inspections and detailed inspections. However, we have still received many complaints, in particular, some road users have indicated that in recent years, the quality of repair works for road surface has been worsening and there are potential dangers in the majority of cases. For example, a gap of almost two inches can be found between the steel plates for temporary cover, and it can easily trip up motorcyclists riding over it. I note that near the end of part (b) of the main reply, the Secretary has mentioned that prosecution actions have been initiated in this regard, and they include 2 869 non-compliance notices issued to the 1% of non-compliance cases ordering immediate rectification and among them, 78 cases were successfully prosecuted. In this connection, may I ask the Secretary if she can ensure, or provide information to elaborate whether these cases involve non-compliance that can seriously affect the safety and lives of road users? Can she provide the details in this regard for our information?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, we agree to this point and we take the safety issue very seriously. In respect of the steel plates for covering the excavated trenches, in fact there are already specifications in the Code. With regard to the standards, the steel plates that contractors are required to lay temporarily on asphalt road surface should have a thickness of 25 mm, must fully cover the trench and should be flush with the adjoining road surface. In terms of either safety or noise, there are also relevant requirements.

The current penalties are stipulated under the Land (Miscellaneous Provisions) Ordinance. Non-compliance involving temporary traffic signs or facilities would be liable to a fine of \$50,000, and non-compliance involving safety precautions would even be liable to a fine of \$200,000.

Just now the Honourable Member was very concerned about the number of cases being processed. I have the number of cases for the period from April 2008 to October 2009 on hand. We have issued a total of 4 500 non-compliance notices. In respect of steel plates about which the Member is concerned, 2 869 of the notices involved the placing of steel plates, erection of trench shoring and installation of temporary road closure facilities, and the rest involved idling sites, display panels or other problems.

In general, our colleagues will certainly follow up after the notices have been issued and usually, the contractors or the promoters will make rectifications expeditiously. Hence we have eventually issued 133 summons after evidence collection and among the 81 cases of non-compliance in question (there can be more than one item in each case), 78 involving non-compliance relating to the placing of steel plates (as mentioned by the Member just now), erection of trench shoring and installation of temporary road closure facilities have all been successfully prosecuted and imposed a fine ranging from \$500 to \$10,000.

MR ALAN LEONG (in Cantonese): *I would like to question the Secretary about part (c) of the main reply. If there are 13 complaints about misplaced traffic signs in the past three months, that means there will be over 50 complaints in a year, and the placing of traffic signs has a direct bearing on road safety indeed. I believe all Hong Kong motorists will know that the red and green traffic signs operated by some workers at the intersections of roads often create many confusions. If any accident is caused, I think the Secretary cannot shirk her responsibility.*

My question is, according to part (c) of the main reply, insofar as the control of red and green traffic signs is concerned, especially those at the intersections of roads, do the authorities have any measure whereby the traffic policemen will conduct site inspections and design the flow of traffic before

allowing the non-professional road repair workers to operate the red and green traffic signs? Can the Secretary elaborate if there is any measure like this?

PRESIDENT (in Cantonese): Mr LEONG, with regard to the number that you cited at the beginning of your question, I notice that it is an average of 13 complaints for the past three months.

MR ALAN LEONG (in Cantonese): *So does that not amount to more than 50 complaints? Thank you, President.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, as I pointed out in part (c) of the main reply, the carrying out of excavation works sometimes entails the placing of some signs and all promoters must comply with the Code compiled by the HyD. We do have standards, hence contractors are not given the discretion to design. Besides, with regard to the temporary traffic arrangement of turning two-lane traffic into single-lane traffic as mentioned by the Member just now, the relevant proposals will be submitted to the TD and the Hong Kong Police Force for approval in advance to ensure that the works will not affect the traffic seriously. Therefore, preparatory work must be done and approval must be obtained before the commencement of works. As I understand and mentioned just now, there is an average of 10-odd cases involving the placing of sign plates and other matters in a month. Not all cases involve contractors' own design for the placing of signs, in some cases the signs may have been placed not at the exact locations or in a manner slightly deviated from the standards. Overall speaking, rectifications considered as compliant with safety standards by the TD can be made when follow-up actions are taken.

MR ALAN LEONG (in Cantonese): *The Secretary has not answered my supplementary question. Is any work flow currently followed so that the traffic policemen can carry out inspections and operation before leaving it to the non-professional workers?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have replied to that. Certainly, the excavation works are different, hence they must follow our Code in filing the promotion. If the works involve diversion measures, they must also obtain approval from the HyD and the police before implementation.

MR CHEUNG HOK-MING (in Cantonese): *President, in part (c) of her main reply, the Secretary mentioned that the HyD has issued 2 869 non-compliance notices. May I ask the Secretary whether this number includes only road surface works, or it also includes a large number of illegal road signs currently placed at roadside, such as signs showing the way to certain residential developments or their sales offices? If the latter is included, has the Government initiated any prosecution actions in this regard?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, given that the main reply is focused on excavation works, the figures provided by us, namely the 2 869 non-compliance notices mentioned by Mr CHEUNG just now were calculated from the regulation figures under the excavation permit system. As for the other illegal road signs that Mr CHEUNG has just mentioned, they are beyond the scope of this discussion. Certainly, I can provide the supplementary information requested by Mr CHEUNG after the meeting. (Appendix I)

MR TAM YIU-CHUNG (in Cantonese): *President, I would like to follow up the case mentioned by Mr IP Kwok-him of steel plates laid on some roads as the repair works are underway to allow the passage of vehicles and avoid causing traffic jams. I have once witnessed that a steel plate laid on the adjacent lane of the opposite direction made a private car aquaplane first, then caused a motorcycle to overturn with the motorcyclist thrown to the ground. I do not know if that was caused by the oil sludge on its surface. If these steel plates have oil sludge or water on their surfaces or have been misplaced or have gaps between them, they can easily give rise to accidents. Just now though the Secretary said they have conducted many inspections, it seems that they cannot prevent accidents entirely. I am given to understand that countries like the United States and Canada have switched to using fibre plates instead of the*

traditional steel plates. If that is the case, has the Government studied if we can use other substitutes to enhance safety? Has the Government conducted any study like that?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, it is required to use steel plates under the current safety standards and codes. If new and better products can be sourced overseas, such as those with anti-skid design as mentioned by the Member, we are certainly happy to follow up. But I wish to say the contractors and promoters are the key. All public utilities or government departments must fully comply with the relevant requirements, hence they have a responsibility to assume. Besides, we have a comprehensive spot-check system. While we conduct only spot checks, once problems are identified on any works sites, we will certainly follow up by conducting a number of re-inspections to check if the problems have been rectified. Therefore, though we have received a total of 61 000 excavation permit applications, we have conducted 201 000 inspections, meaning that each application has been inspected more than once. We attach great importance to this. If, as the Member said, there are other materials of higher safety standards, we are happy to commence a study on that.

PRESIDENT (in Cantonese): Last supplementary question.

MR IP KWOK-HIM (in Cantonese): *We have also seen some complaints, and among them, the professional Institute of the Motor Industry Hong Kong has pointed out that the tread on some manhole covers has become almost bald after decades of exposure, hence vehicles, especially motorcycles, can easily skid when they run over these covers. They have raised this with the HyD and the TD, but to no avail. May I ask the Secretary, given these complaints, whether the Government will continuously review the safety standards of road facilities? Also, many books have pointed out that, as Mr TAM Yiu-chung said just now, fibre plates can reduce the occurrence of aquaplaning, and they have thus been widely used overseas. Will the Government conduct regular reviews in this regard and switch to safer materials?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, as I said just now, we are certainly prepared to pursue the highest standards in the world. Besides, system-wise, the TD and the public utilities have established a three-tiered consultative structure through which opinions can be relayed to us with respect to policy co-ordination for facilities in terms of the level of facilities, technology, materials and front-line work as mentioned by the Member. Therefore, be it the delivery of front-line works, management, technology of the facilities or the relevant standards, we will continue to improve the current practices through the consultative structure and keep an interest in the availability of other materials or standards suitable for our use. As Mr IP Kwok-him mentioned just now, we can seek more advice from the professional institutions (we have been maintaining a very good working relationship with many of them) through the HyD and the TD.

PRESIDENT (in Cantonese): Fourth question.

Utilization of Shenzhen Bay Port

4. **MR ANDREW LEUNG** (in Cantonese): *President, it has been reported that since 22 February this year, the Man Kam To crossing has been temporarily closed for reconstruction, resulting in a rapid increase in the number of cross-boundary vehicles using the Shenzhen Bay Port in recent months, thus lengthening the time required for crossing the boundary. In this connection, will the Government inform this Council:*

- (a) *of the estimated and actual utilization of Shenzhen Bay Port in the past three years;*
- (b) *how the monthly cross-boundary vehicular flow of Shenzhen Bay Port since the closure of Man Kam To crossing compares with that of the same period last year; and*
- (c) *whether the Immigration Department (ImmD) has adjusted the manpower in Shenzhen Bay Port in response to the increase in the number of cross-boundary passengers and vehicular flow; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): President, the Shenzhen Wenjindu Port Passenger Clearance Building has been temporarily closed for reconstruction works since 22 February 2010. As estimated by the Shenzhen Municipal Government, the reconstruction works will last for two years. Clearance services for passengers and private cars have been suspended since then. As regards the private cars, arrangements have been made by the Mainland authorities and the Transport Department of the SAR to allow some 400 cross-boundary private car owners who have quotas for using the Man Kam To crossing to use an alternative control point of their own choice. In fact, the daily traffic flow of private cars at the Man Kam To crossing was only around 400 in respect of cross-boundary private cars. Hence, the impact of the diversion of the private cars to the traffic flow of other control points, including Shenzhen Bay Port, should not be significant.

Our reply to the questions of Mr LEUNG is as follows:

- (a) The Shenzhen Bay Port commenced operation on 1 July 2007. The anticipated daily cross-boundary flow was 29 800 vehicles and 30 800 passengers.

From July to December 2007, that is, in the first six months following its commissioning, the actual cross-boundary daily average flow was 3 100 vehicles and 23 700 passengers. In the ensuing two years, the average daily vehicular flow rose to 5 900 and 7 400 respectively in 2008 and 2009. In the first five months of this year, the average daily vehicular flow was 8 600 vehicles. In regard to passenger flow, the average was 34 200 in 2008, which has already exceeded the anticipated flow, and 46 100 in 2009. It reached 56 000 in the first five months of this year.

Regarding the cross-boundary vehicular traffic flow on which the Member expressed concern, the cross-boundary vehicular flow at the Shenzhen Bay Port in the past three years still falls short of the anticipated target of 29 800. The prevailing daily average vehicular flow is 8 600.

- (b) From March to May in 2010 after the closure of Wenjindu Port, the monthly vehicular flow at the Shenzhen Bay Port was 269 000,

267 400 and 267 900 vehicles respectively, a daily average of 8 700. The corresponding daily average for the same period in 2009 was 7 200. In other words, the average daily vehicular flow from March to May in 2010 has increased by about 21% over the same period in 2009. The quantitative change in vehicular flow is in line with the trend as the vehicular flow has also increased by 25% during the period from 2008 to 2009. It appears that the vehicle diversion of Man Kam To Control Point has very little impact on the traffic of Shenzhen Bay Port.

- (c) The ImmD has around 300 staff members working in Shenzhen Bay Port, and has flexibly deployed its manpower in response to the actual passenger and vehicular flow at the Shenzhen Bay Port. In 2008 and 2009, the ImmD appropriately deployed more staff of Shenzhen Bay Port to process passenger clearance when the passenger flow exceeded the anticipated figure while the vehicular remained low. Early this year, around 20 staff members from other control points have been redeployed to the Shenzhen Bay Port to cope with the increasing traffic.

MR ANDREW LEUNG (in Cantonese): *President, I am glad to see that the Government has adopted flexible deployment to cope with the situation, and I have inspected the sites in person. During rush hours, the queue of vehicles waiting there is really long. There are two sides at the port. Apart from the Hong Kong side, the congestion at the other side is even more serious. May I ask the Secretary whether co-ordination with the Chinese side has been made to balance the flow of both sides? Have arrangements been made to the overall clearance procedures of passengers or vehicles to spare them of waiting at one side and then the other?*

SECRETARY FOR SECURITY (in Cantonese): President, such a mechanism has been put in place. Within the Government, a committee responsible for port management has been set up. It does not only co-ordinate with our counterpart, for it is also responsible for internal co-ordination. Take the ImmD and the Customs and Excise Department (C&ED) as an example. If the ImmD intends to open a crossing but the C&ED does not have the manpower to cope, the

crossing cannot be opened. Hence, we have to make internal co-ordination first. Moreover, a hotline on port management has been set up, which enables us to contact the other side by just picking up the phone. In the event of any incident, or when the need to cope with increasing flow arises, and we consider it necessary to open additional crossings, we will notify the border control point of the Mainland and the C&ED to cope with it. This mechanism has been operating for many years.

MR JEFFREY LAM (in Cantonese): *President, in part (b) of the main reply, it is pointed out that from March to May this year, the vehicular flow at the Shenzhen Bay Port was at a daily average of 8 700, an increase of 21% compared with the same period last year, that is 2009. I have used that port before and, like other users of the port, I consider that the waiting time is longer now. May I ask the Secretary whether the situation is caused by the manpower distribution at the port, which has been focused on the provision of passenger services to the neglect of the need of the increased cross-boundary vehicular flow? Has the Bureau considered increasing manpower, or is it necessary to increase manpower to cope with the increased vehicular flow and speed up the handling procedures to shorten the waiting time?*

SECRETARY FOR SECURITY (in Cantonese): President, as I mentioned in the main reply earlier, the number of passengers now using the Shenzhen Bay Port has already exceeded the anticipated figure when we designed the port. Initially, we anticipated that there would be 30 000 passengers, but now there are some 50 000 passengers. As for vehicular flow, the original design was made to cope with 29 800 vehicles, and though the flow has now increased, there are only some 8 000 vehicles using the port daily. We have actually transferred some staff responsible for vehicle service to the immigration hall to provide passenger service, for we should deploy manpower flexibly.

At present, the ImmD understands that both vehicular flow and passenger flow have been increasing in the past two years. We are now examining other long-term solution to shorten the waiting time of passengers and drivers. We will deploy manpower flexibly. We have even transferred some staff from other border control points to the Shenzhen Bay Port. For instance, because of the

temporary cessation of passenger clearance service at Man Kam To crossing, we will consider redeploying some of the manpower. Recently, 20 officers have been transferred from other control points to work at the Shenzhen Bay Port. In addition, we hope that new model e-channels (automatic passenger clearance system) can be added at various control points for use of certain frequent visitors to Hong Kong, including Mainland visitors to Hong Kong.

Moreover, the ImmD plans to expedite the study on the provision of an automatic clearance system for private vehicle drivers and private vehicles. I believe Mr LAM has used that system before. If the automatic clearance system is installed at the immigration hall, ImmD staff will not have to go on duty, and the flexibility will be greatly enhanced. In future, when this type of automatic clearance system for private vehicles has been installed, those private vehicle owners who have registered with us may use the automatic channel for private vehicles when the vehicular flow is high. The flow of traffic will be smoother by then.

MRS SOPHIE LEUNG (in Cantonese): *President, last month, in the reply of the Secretary for Transport and Housing to a similar question asked by Mr LAU Kong-wah, she said that "the Guangdong and Hong Kong Governments consider that there is room to relax the control on cross-boundary private cars on an incremental basis" — the Secretary also mentioned that in his reply to Mr Jeffrey LAM — she went on to say that, "the relevant authorities of the Hong Kong and Guangdong Governments have reached preliminary agreement to implement an ad hoc quota trial scheme at the Shenzhen Bay Port", and that the details of implementation were still under discussion. This is the reply by the Secretary to Mr LAU Kong-wah last time. May I ask the Secretary whether the Government is prepared to introduce more flexible arrangements of this type? Particularly on the announcement of particulars of the flexible approaches and arrangements adopted for handling vehicular flow and passenger flow, do the authorities have a timetable?*

SECRETARY FOR SECURITY (in Cantonese): President, we have planned such design for this, hoping to enhance the efficiency of clearance. Mrs Sophie LEUNG mentioned earlier that the Bureau for Transport and Housing was

examining with the Mainland authorities concerned the granting of one-off special quota to private vehicles. The relevant details are still under discussion and if one-off special quotas are provided in future, the vehicular flow of the vehicle crossing may also increase. Precisely for this reason, we are now studying the introduction of an automatic clearance system for private vehicles or at vehicle crossings. A timetable on the design of the system has been drawn up. Later, we may submit a funding application to the Finance Committee of the Legislative Council for the installation of these automatic clearance systems, and I hope Members will support it then.

MS LI FUNG-YING (in Cantonese): *President, the reply of the Secretary indicates that the increases in both passenger flow and vehicular flow are very substantial. Particularly in terms of passenger flow, in the first five months of this year, the number of passengers has increased by 10 000, it is 10 000, but the manpower arrangements made cannot cope, evident in the reply given by the Secretary earlier in response to colleagues or his written reply. He mentioned measures like the addition of e-channels and automatic clearance systems for vehicles, but those measures cannot bring about immediate effects. As for short-term arrangements, will the Secretary review and increase manpower? For I wonder when the e-channels mentioned by him can be implemented.*

SECRETARY FOR SECURITY (in Cantonese): President, we will review our staffing arrangement regularly. But I have to tell Members that the increase of manpower will involve public money and we have to ensure that every dollar is well spent. As for the present situation at the Shenzhen Bay Port, Members may see that the increase in passenger flow is substantial, and I agree with Ms LI Fung-ying on this point, for the passenger flow has increased from some 40 000 passengers to some 50 000 passengers, which is an increase of around 20%. However, Members must not forget that with more passengers using the Shenzhen Bay Port, it means that the passenger flow at other control points will be reduced. In other words, the number of users of the control points at Lo Wu and Lok Ma Chau will also decrease. Since passenger clearance service is temporarily ceased at the Man Kam To control point now, we will adopt a flexible approach to first make internal deployment of manpower. We do not wish to see some of the colleagues being extremely busy while some others do

not have much work to do, for we should share out the work. After the flexible deployment of manpower is completed, if we do not have spare hands to cope with the increased flow, we will not rule out the possibility of recruiting additional staff.

MR WONG YUNG-KAN (in Cantonese): *President, I would like to ask the Secretary one question. Since shops receiving tour groups from the Mainland are often found "ripping customers off", will those shops make compensation, and how can this problem be prevented? Will the authorities set up a demerit points system for those shops as a solution to this problem?*

PRESIDENT (in Cantonese): Mr WONG, we are now handling the fourth question, which is on Shenzhen Bay.

MR WONG YUNG-KAN (in Cantonese): *Sorry, Secretary. I just returned from a meal upstairs.*

MR WONG SING-CHI (in Cantonese): *President, the Secretary mentioned that the closure of the Wenjindu crossing at Shenzhen did not have much impact on the Shenzhen Bay Port. But the explanation of this point by the Secretary is uncalled for, for Wenjindu crossing is located in the east while the Shenzhen Bay Port is in the west. If we travel from the east of Hong Kong to the west, it will take 45 minutes to an hour, while travelling from the east of Shenzhen to the west will take an hour or two. So even if the Wenjindu crossing is closed, the public will not switch to the Shenzhen Bay Port, and we can understand this in the geographical dimension.*

The problem is that with the closure of the Man Kam To crossing, passengers will switch to other control points in the vicinity, which are all extremely busy control points — the Huanggang control point, the Lo Wu control point and the Sha Tau Kok control point. Has the Secretary examined whether the vehicular flow resulted from the closure of the Man Kam To crossing has caused disturbance to other control points? Since the public cannot use the Man Kam To crossing, how much loss have they incurred because of this?

Moreover, having learnt about these situations, has the Secretary reflected the problem to the Chinese side and striven for the expeditious completion of works at the Wenjindu crossing to minimize by all means the impact on the residents of North District in not being able to cross the border via the Man Kam To crossing?

SECRETARY FOR SECURITY (in Cantonese): First, I have to correct Mr WONG that before 1997, we could use the term Chinese side, but now, we are the Chinese side, so if we have to reflect the situation, we have to reflect it to the Shenzhen side, not the Chinese side.

Originally, the private vehicle quota for the Man Kam To crossing is only 400. According to our figures, during the closure of the Man Kam To crossing for private vehicles, most of the vehicles have chosen to use the Lok Ma Chau control point, among which 300 vehicles have chosen to use the Lok Ma Chau control point. Under the existing arrangement, vehicle owners holding cross-boundary private vehicle quotas of other control points are exempted from making applications for using the Shenzhen Bay Port. As I mentioned in the main reply earlier, and also by Mr WONG Sing-chi, the closure of the Man Kam To crossing for private vehicles will not have particular impact on the Shenzhen Bay Port. The utilization rate of the Shenzhen Bay Port is now increasing. At present, more people choose to cross the boundary at that control point, but the increase should not be attributed to the temporary closure of the Man Kam To crossing for private vehicles.

Mr WONG Sing-chi asked whether the closure of the Man Kam To crossing to private vehicles would bring additional vehicular flow to other busy control points such that the latter might fail to cope with the increase. Actually, as indicated by the figures, there is no significant increase in the vehicular flow, as well as passenger flow, at the control points at Lok Ma Chau and Sha Tau Kok after the closure of the Man Kam To crossing. At present, the Shenzhen Bay Port is more popular, and the vehicular flow at Lok Ma Chau control point has on the contrary decreased. Hence, as I pointed out in my reply to Ms LI Fung-ying, due to the diversion effect, we may transfer manpower from other control points to the Shenzhen Bay Port.

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

MR WONG SING-CHI (in Cantonese): *The Secretary has not answered whether he will urge the Shenzhen Government to complete the improvement works at the Wenjindu Port as soon as possible to advance the reopening of the port. This is the question I just asked.*

SECRETARY FOR SECURITY (in Cantonese): President, we will definitely reflect this point.

PRESIDENT (in Cantonese): Last supplementary question.

MR JEFFREY LAM (in Cantonese): *President, for shops specializing in receiving Mainland tour groups in Hong Kong, such as*

PRESIDENT (in Cantonese): We are still handling the fourth question.

MR JEFFREY LAM (in Cantonese): *Sorry.*

MR WONG YUNG-KAN (in Cantonese): *President, I would like to ask the Secretary one question. Since the commencement of the repair and expansion works at Man Kam To, the road there becomes extremely narrow. Has the Government negotiated with the Shenzhen authorities on ways to ensure that proper expansion will be carried out to enhance the traffic flow at Man Kam To? As for the Shenzhen Bay Port, since many vehicles are now using the Port, will the goods transport — particularly food-related one — switch back to the original control point in future?*

SECRETARY FOR SECURITY (in Cantonese): President, according to my understanding, the immigration hall of the Wenjindu Port is now under renovation and services for visitors are ceased temporarily, and it will be reopened two years later. Insofar as I am aware, clearance service for goods vehicles is still provided at the control point. This service is not suspended.

PRESIDENT (in Cantonese): Fifth question.

Relocation Arrangement for Paper Recyclers Affected by Decommissioning of Kwun Tong Public Cargo Working Area

5. **MR WONG KWOK-KIN** (in Cantonese): *President, the existing Berth Licence Agreement for the Kwun Tong Public Cargo Working Area (PCWA) will expire in July 2011. To complement the development of the Kai Tak promenade, the Government has planned to decommission the PCWA, but it has not yet reached consensus with the 12 affected paper recyclers on a new operation site. I have learnt that if those 12 paper recyclers are forced to wind up their business, the livelihood of tens of thousands of workers will be adversely affected. In this connection, will the Government inform this Council:*

- (a) *of the average daily quantity of waste paper disposed of at Kwun Tong PCWA at present, and its percentage in the total quantity of waste paper disposed of in Hong Kong; whether the Government has assessed the average increase in the daily amount of waste paper to be delivered to the landfill areas for disposal upon the cessation of business of the aforesaid 12 paper recyclers; whether the authorities will consider reserving a piece of land at a nearby place or at the Gin Drinkers Bay PCWA for the paper recyclers to continue their operation, as well as improving the quality of management and the facilities with a view to developing the place into a waste paper recycling centre; if they will, of the details; if not, the reasons for that;*
- (b) *whether the authorities have any comprehensive long-term policy and target for the recycling trade at present, and whether they have*

any plan to offer assistance to the local recycling trade; if so, of the details, including the targets and measures for recycling waste paper; if not, whether they will consider formulating such policies, targets and plans; and

- (c) *whether the authorities will consider making reference to the proposal for building an incinerator in Tuen Mun and, in relocating the aforesaid 12 paper recyclers, provide comprehensive enhancement to their new operation site, so that the residents will accept the operation of recyclers in the district; if they will, of the details, if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Thank you, Mr WONG Kwok-kin, for raising this main question.

- (a) Waste recovery and recycling play a pivotal role in solving Hong Kong's waste management problem. In 2009, a total of over 1 million tonnes of waste paper were recovered from municipal solid waste. About 60% of them (roughly 650 000 tonnes) were exported to neighbouring regions for recycling via Kwun Tong PCWA, which contributes heavily to the local waste paper recycling industry. At present 12 berths with an aggregate length of 320 m at the Kwun Tong PCWA are used for waste paper export. We hope the affected exporters would move to other PCWAs to continue operation and keep the overall export amount unchanged.

We plan to decommission Kwun Tong PCWA in mid-2011 to make way for the development of Kwun Tong Promenade Stage 2. Since 2008, the Government has encouraged the affected berth users, including waste paper recyclers, to relocate on a voluntary basis to vacant berths in other PCWAs to continue their operation. There are sufficient vacant berths, both in terms of berth number and berth length, in other PCWAs for the affected waste paper recyclers and other berth users to continue their operation.

- (b) To support the development of the waste recycling industry, the Government sets out a series of long-term initiatives in the Policy

Framework for the Management of Municipal Solid Waste (2005-2014). They include:

- Programmes on source separation of waste to encourage the public to separate waste at source so as to increase the amount of local recyclables for collection;
- Encouraging the development of recycling technology to upgrade the standard of local recycling industry through the Innovation and Technology Fund, the Environment and Conservation Fund and various funds for small and medium enterprises;
- Promoting the green procurement policy among government departments to boost the demand for green products as an outlet for recycled/green products and materials;
- Implementing producer responsibility schemes to encourage the public and the industry to engage more actively in waste recovery;
- Identifying more suitable sites for lease to the recycling industry under short-term tenancy through bidding; and
- Developing the EcoPark to provide long-term land for the recycling industry at affordable rent so as to facilitate and encourage investment by the industry. The target is to transform gradually the traditional simple mode of recycling operation (that is, collection, baling and export) into high value-added processes that comply with environmental and other statutory requirements.

The above policy initiatives aim at creating a more favourable operating environment for local recycling industry. The Government will continue to implement these initiatives to ensure a steady supply of source materials for various recycling trades including waste paper recyclers, and to explore more outlets for recyclables.

- (c) As for the development and management of waste treatment facilities, the Environment Bureau incorporates appropriate enhancement measures into their design and monitors the environment vigorously to ensure that their operation will not create adverse environmental impact on the surrounding area. In managing the PCWAs, the Marine Department ensures that the operation will meet the mandatory requirements. It is necessary to decommission Kwun Tong PCWA to make way for the development of Kai Tak and its neighbouring communities.

MR WONG KWOK-KIN (in Cantonese): *President, I am very disappointed with the main reply from the Government because the reply is hollow and fails to address specifically the relocation arrangements of these waste paper exporters. The Government is actually fully aware of the important role played by these recyclers for 60% of the waste paper recycled in Hong Kong is exported through Kwun Tong PCWA. Hence the operation of their business is vital to the paper recycling trade in Hong Kong and the families or the living of tens of thousands of people who earn money by picking discarded cardboards and waste paper, and also those people who engage in waste paper recycling and transportation are also affected. Regarding this important issue of relocation, the Government has since 2007 not been able to reach a sound agreement with these people. As a matter of fact, the Government knows well their demand, that is, to continue operating their business as it is. But what we find in the main reply is that they are told to relocate to other PCWAs at their own initiative and they can continue their operation there. But can they be allowed to operate in the same way as they are doing currently?*

The PCWA there is the loading, unloading and export area for the entire Kowloon region and these recyclers need to concentrate there for reasons of cost reduction and others like sharing piers and other facilities. If they scatter to other places, they will be forced out of business. These reasons have been raised with the Government many times, but the reply from the Environmental Protection Department (EPD) is that despite the existence of an environmental protection policy, no regulation can be imposed on the piers. We have made enquiries with the Marine Department and its reply is that it can help these

recyclers in looking for other piers so that they can operate their business together, but there is no environmental protection policy

PRESIDENT (in Cantonese): Mr WONG, please come to your question direct.

MR WONG KWOK-KIN (in Cantonese): *My supplementary question is: so far, has the Secretary tried to work out a practicable solution to this matter through discussions with departments which have jurisdiction over this? Otherwise, some trouble is going to happen with relocation.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Mr WONG Kwok-kin for his supplementary question. Currently, with respect to waste paper recycling that requires the waterfront for cargo handling, there are three such places in Hong Kong. There are three recyclers in Tuen Mun, six in Chai Wan and 12 in Kwun Tong.

Due to the need of community development in Kwun Tong, it is necessary to resume that piece of land. Under the existing policy, assistance has been offered as much as possible. Actually there are not only 12 recyclers, but all the affected operators using this PCWA will have to be relocated.

We know that in the trade's view, if the recyclers can gather together as a cluster, they would have better chances. But that will depend on the number of vacant berths currently. According to information from the Transport and Housing Bureau and the Marine Department, the number of vacant berths and the length of the waterfront at PCWAs in Hong Kong should be enough for these 12 waste paper recyclers to bid in a tender exercise again and they can continue with their operation.

We know that they hope to operate in close proximity to each other by all means, but we can see that among the existing PCWAs, it seems there is none which can provide enough vacant berths to accommodate all of them. Thus insofar as I am aware, the relevant departments, including the Marine Department and the EPD have tried to engage them in discussions, taking account of their

individual circumstances. However, before the agreement expires next year, we hope that the waste paper recyclers in this PCWA will consider by all means the vacant berths available and make their applications early. This is because we know that there are vacant berths in Tuen Mun, the Rambler Channel, Stonecutter's Island, Chai Wan, and so on. I believe under the existing mechanism, if there is a chance, I would encourage them to make applications.

MR ALBERT CHAN (in Cantonese): *President, the Secretary holds a worse attitude towards the recyclers than the way the Government treats Members of this Council over the issue of constitutional reform. He is nice only when nothing happens, but nasty when something happens. The Environment Bureau has never formulated any comprehensive policy or made any arrangement in accordance with the needs of the recyclers for berths in terms of environmental protection policy or planning.*

For many years the recyclers have developed this effective and successful recycling operation in response to practical needs and the needs of society. This is not the outcome of any design by the Environment Bureau. But when the Government talks about a green policy on waste paper recycling, it mentions figures about these recyclers. These figures on waste paper recycled are the result of the hard work of these recyclers, not that of any policy formulated by the Environment Bureau

PRESIDENT (in Cantonese): Please come to your supplementary question direct.

MR ALBERT CHAN (in Cantonese): *The container terminals were built in phases from terminal number one, two, three and onwards, and there is a holistic plan. As for planning concerning these recyclers and the PCWAs, however, there is no co-ordination at all among Policy Bureaux. If the Secretary is certain that there is an objective need in policy terms for these waste paper recyclers to use the piers or PCWAs for their operation, then a responsible Secretary should instruct the Planning Department to plan the number of PCWAs or berths in each district needed for use by these recyclers when designing these container terminals. This will enable green policies to be implemented. The Secretary has not done this, so is this dereliction of duty and total neglect of the*

contribution made by the recycling operation to the environmental protection industry and green policies?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I have explained clearly in the main reply and in answering the supplementary questions raised earlier that we consider it there are merits for waste paper recyclers to load and unload their cargoes at the waterfront. But is it necessary for all the 12 operators presently working in Kwun Tong to be relocated to the same place? I would think that we should consider whether there is actually such space in the other PCWAs and whether in terms of policy there is any need to place all of them at the same place. This is because other than the waste paper recycling industry, other recycling industries are scattered in various PCWAs all over Hong Kong and even when we talk about the waste paper recycling industry alone, operators are scattered in three different places in Hong Kong.

In reply to Mr CHAN's supplementary question, I believe government departments are all glad to provide assistance in the relocation of these recyclers if space can be spared. However, under the existing mechanism, although we can see that there is space in terms of the overall amount, it may not be possible to relocate them all to one place.

MR ALBERT CHAN (in Cantonese): *President, I was asking the Secretary whether or not anyone is to be held responsible in planning. As the Policy Bureau in charge of this, it must consider the situation in every district before deciding in planning how many similar facilities should be provided to deliver such services in order to cope with the implementation and enforcement of policy*
.....

PRESIDENT (in Cantonese): Mr CHAN, your question is clear enough. Secretary, do you have anything to add?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, Mr Albert CHAN was right about this, because the entire recycling industry is not planned by the Government alone. Currently, the some 10 to 20 recyclers in Hong Kong operate according to market needs and the special thing about this is

that some of them have formed a large cluster in Kwun Tong. Given the scope and space available, of course we hope that their development can continue, however, it would be difficult in planning to require these 12 recyclers to relocate all to one place.

MR KAM NAI-WAI (in Cantonese): *President, the main reply mentions those integrated and long-term policy initiatives for the local recycling industry. And the Secretary has also mentioned programmes on source separation of waste in his main reply. However, I am surprised to find that nothing is mentioned on the problems which I have been raising all along and, that is, recyclers at the community level. What kind of policies does the Environment Bureau have to regulate and help them? We know that these community recyclers — as Members from the districts we have to deal with problems causing nuisance and impact to the environment and these community recyclers have a great effect on the recycling industry for they are one of its sources. So I would like to ask the Secretary, as the loading of waste recovered onto vessels and berths are problems to be handled, how the waste is to be collected is also another problem. Does the Government have any integrated policy to regulate these recyclers in the community so that they can become regularized and will not cause any nuisance to the community concerned? In this way, they are given due assistance.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Thanks to Mr KAM Nai-wai for his supplementary question. I recall previously in a motion debate in this Council in which the topic of waste management was mentioned, some Members asked whether legislation should be enacted to regulate recyclers who operate a small shop or as individuals. And I recall there were different views expressed in this Council. With respect to environmental nuisances caused as mentioned by Mr KAM Nai-wai, now the Public Health and Municipal Services Ordinance has imposed regulation on this and the EPD also effects regulation of environmental nuisance. I believe there are great controversies in society on the question of whether or not the recycling trade should be regulated by a licensing regime or legislation. On the one hand, there are misgivings about regulation would otherwise curb development in this respect, especially on work types which do not belong to the mainstream and in which workers have

relatively low employability. Therefore, for the time being, we do not intend to regulate waste recycling and recovery activities at the neighbourhood or community level. However, on the management of cityscape or other aspects of the environment, they are regulated by various departments and laws.

MS AUDREY EU (in Cantonese): *President, page 2 of the main reply mentions that "The above policy initiatives aim at creating a more favourable operating environment for local recycling industry." President, we know that the environmental protection industry is also included the six major industries advocated by the Government for development. And of course, that includes the waste paper recycling industry as well. Now Kwun Tong PCWA handles 60% of the waste paper recovered. But it is about to be demolished. The Secretary hopes that these recyclers can find other piers and relocate to other places at their own initiative. Can the Secretary explain why these recyclers with such good cohesion and capability to handle 60% of the waste paper recovered have to be dispersed to various places? May I ask how can a more favourable operating environment be created for the local recycling and recovery industries? Why is splitting them up more advantageous? Why does the Secretary not think that identifying a new place for these recyclers to provide clustered services is more favourable to the operating environment?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, in respect of the views put forward by Ms EU just now, the paragraph to which she referred is part (b) of my answer to Mr WONG Kwok-kin's main question. On the question of whether these 12 waste paper recyclers can be relocated to one and the same district, speaking of now, I would think that if a suitable place can be identified to enable them to come together, this would be something which we are happy to see. But is this the one and only one option? This is because now in Hong Kong, the waste paper recycling industry is not operating in Kwun Tong alone. We must think about the space in the existing PCWAs which are available and we can see that this can be done in a number of districts in Hong Kong. The size may be quite large in some of them. An example is Chai Wan where there are now eight berths as long as 300 m. Or at the Rambler Channel mentioned by Mr WONG Kwok-kin, there are three berths of about 100 m in length. They can allow some of these recyclers to gather in operation. But

when considering whether or not these 12 recyclers can be handled together as a whole, we have to see if there is enough space available.

MS AUDREY EU (in Cantonese): *President, the Secretary has not answered my supplementary question. The Secretary says that the reply given in part (b) also includes waste paper recycling and it is about the aims or objectives of waste paper recycling*

PRESIDENT (in Cantonese): Please come to your supplementary question direct.

MS AUDREY EU (in Cantonese): *..... and it is stated that a more favourable operating environment would be created. President, I was not asking him whether to split them up or pool them altogether is the only solution. The supplementary question which I posed to the Secretary was very simple. Why is splitting them up more favourable to the operating environment and better than pooling these recyclers together to recover 60% of the waste paper in Hong Kong? The Secretary has not answered my question at all. He only said that no other places are available.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I have explained very clearly in the reply I gave just now. Policy-wise, regardless of PCWAs or land leased on a short-term basis, or even for the setting up of EcoParks, all these are various ways to provide suitable land for the operation of these recyclers. Of course, within the scope of this policy, we would be glad to see these recyclers gather together and achieve the economies of scale. But as I said in answering questions raised by Mr WONG Kwok-kin and Ms Audrey EU, this would have to depend on the space limitations we have before a proper response can be made.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Sixth question.

Regulation of Shops Which Mainly Serve Tour Groups from the Mainland

6. **MR JEFFREY LAM** (in Cantonese): *President, shops in Hong Kong which specifically serve tour groups from the Mainland, such as jewellery and audio/visual shops, often receive a large number of visitors at the same time. In this connection, will the Government inform this Council:*

- (a) of the types of licenses required for establishing such shops, and whether first aid facilities are required to be provided in those shops for use by customers when they do not feel well; and;*
- (b) whether the licensing conditions of such shops have stipulated the maximum number of customers allowed in the shop at any one time, and whether such shops are required to install adequate fire safety and fire escape facilities for evacuating a large number of customers from the shops in case of fire?*

SECRETARY FOR SECURITY (in Cantonese): President,

- (a) Generally speaking, there are no specific licensing requirements for operating a retail shop. According to the information provided by the Labour Department, employers are required by existing legislation on occupational safety and health to provide first aid facilities in the workplace for their employees. These facilities are available for use in case of emergencies.

In view of the increasing prevalence of heart disease with signs of early occurrence among the public, apart from encouraging people to receive first aid training so that they can assist patients suffering from heart attack, the Government has been actively promoting automated external defibrillation in the community. Automated external defibrillation refers to the use of automatic external defibrillators to perform cardiac resuscitation on patients. To this end, the Fire Services Department (FSD) has implemented a Public Access Defibrillation Scheme since 2006. Under the Scheme, free cardiopulmonary resuscitation and automated defibrillation training is provided with the aim of encouraging organizations to install

automatic external defibrillators in public places. So far, more than 3 900 individuals, including staff of property management companies, airport security personnel, staff of residential care homes for the elderly, government staff, staff of hotel operators, staff of the MTR Corporation, fire safety ambassadors and civilian staff of the FSD, have received such training and acquired the basic knowledge of cardiopulmonary resuscitation and automated defibrillation, as well as the basic skills on operating an automatic external defibrillator.

- (b) While the Administration has not imposed any restrictions on the maximum number of customers allowed in retail shops in general, existing laws are in place to ensure that the buildings in which shops are located meet relevant fire safety standards. In addition, certain types of shops are required to implement additional fire safety measures.

Pursuant to the Buildings Ordinance (Cap. 123), all buildings must, having regard to their intended use, provide fire safety measures in building structural construction, including means of escape and fire resisting construction, in order to protect the safety of occupiers. In addition, under section 16(1)(b) of the Buildings Ordinance, all plans of building works must be endorsed with a certificate from the Director of Fire Services in order to ensure that there are adequate fire service installations and equipment to cope with the potential fire risks having regard to the intended use of the buildings.

With respect to fire service installations and equipment, pursuant to Regulation 8(a) of the Fire Service (Installations and Equipment) Regulations (Cap. 95B), owners of fire service installations or equipment shall keep such installations or equipment in efficient working order at all times and have such installations or equipment inspected by a registered contractor at least once in every 12 months.

With respect to the arrangement of means of escape, the Buildings Department will calculate the potential number of persons according to the floor area of the shops concerned in accordance with Table 1 of "the Code of Practice for the Provision of Means Of Escape In

Case Of Fire 1996", in order to assess whether the means of escape is adequate. In addition, according to the Fire Services (Fire Hazard Abatement) Regulation (Cap. 95F), the means of escape of all the shops should be free of any obstructions. If the regulation is violated because the means of escape is obstructed, the owner will be liable on conviction to a fine or even imprisonment.

Moreover, owners of any shops falling within the scope of "prescribed commercial premises" as defined under the Fire Safety (Commercial Premises) Ordinance (Cap. 502), namely banks, off-course betting centres, supermarkets, department stores, shopping arcades, and jewelry/goldsmith stores with a security area, are required to take additional safety measures prescribed by the Ordinance (for example, provision of fire service installations and equipment as well as adequate means of escape) due to the unique fire risks of such shops. The additional requirements are intended to provide better fire protection for the shops' occupiers, users and visitors.

MR JEFFREY LAM (in Cantonese): *President, I know that quite a few shops which specifically serve tour groups from the Mainland are located in some old industrial areas or old industrial buildings. Many of them may only have main entrances but not back doors, and some may have even undergone unauthorized alterations to some means of escape or fire services installations in order to hold more customers in the shops.*

May I ask the Secretary how many shops will be inspected each year to ensure that they have not undergone unauthorized alterations to means of escape or fire services installations, which may cause obstruction? Have they inspected the premises of Win Sing Travel whose licence has recently been revoked?

SECRETARY FOR SECURITY (in Cantonese): President, in reply to Mr LAM's supplementary question, the FSD inspected 1 800 industrial buildings between April and June this year to verify if there is any danger of fire. The FSD found 130 cases of suspected change of use, and has notified the Buildings Department of the situation for follow-up. (Appendix 1)

As regards jewellery shops, the FSD inspected more than 100 jewellery shops in the past three years. If it was found that there was danger of fire or there were substandard fire services installations, the FSD should have taken follow-up actions.

Regarding the case of Win Sing Travel mentioned by the Member, I do not have the relevant information at hand; perhaps I can give a reply in writing later. (Appendix II)

MRS SOPHIE LEUNG (in Cantonese): *President, the Secretary has just said in reply to Mr Jeffrey LAM's supplementary question that many such shops are located in old industrial buildings, so how can they comply with the safety standards when they receive tour groups of a large number of visitors? Is another department responsible for monitoring the licensing system?*

SECRETARY FOR SECURITY (in Cantonese): Mrs Sophie LEUNG has raised a more important issue about the policy concerning the revitalization of industrial buildings. The revitalization of industrial buildings falls within the portfolio of the Secretary for Development, and I will convey to the Secretary the Member's concern. However, insofar as the policies of the Security Bureau are concerned, even if the revitalization of industrial buildings involves the change of use of some industrial buildings, we should ensure that these industrial buildings must comply with the required fire safety standards under the relevant legislation after such change of use. If these companies fail to comply with such standards, the authorities concerned will not allow them to operate in old industrial buildings.

MR WONG KWOK-HING (in Cantonese): *May I ask the Secretary how these shops which specifically serve visitors from the Mainland can be enabled to operate with enhanced transparency, so that various incidents will not affect the reputation of Hong Kong and people will not have the impression that these dishonest shop operators specifically fleece visitors? Can the Secretary consider requiring these shops to display signs bearing conspicuous wordings and setting up a report hotline so that visitors can call the hotline when they encounter problems insofar as security, law and order or shopping is concerned? These shops can then operate with greater transparency and the interests of*

visitors and consumers can be protected. Can the Secretary consider these suggestions?

SECRETARY FOR SECURITY (in Cantonese): President, this policy falls within the ambit of the Commissioner for Tourism as he has all along been handling the relevant work. Certainly, I will reflect Mr WONG's views to the Policy Secretary concerned and the Commissioner for Tourism. From the angle of the Security Bureau, the police may eventually be required to take complementary enforcement actions. We will have a part to play but the Security Bureau is not playing the leading role insofar as the relevant policy is concerned. Even so, about Mr WONG's concern, I will This is also an issue of grave concern to Hong Kong people: how should we deal with these dishonest shop operators, and how can we introduce a policy which enable shops to operate with greater transparency so that dishonest shop operators would stand out? I will reflect the situation to the Policy Bureau concerned.

MR CHAN KAM-LAM (in Cantonese): *President, the Secretary has stated in the last paragraph of his main reply that the owners of prescribed commercial premises are required to take additional safety measures such as providing adequate means of escape according to the relevant provisions. However, many prescribed commercial premises are located in industrial buildings, and these industrial buildings may have undergone change of use. Alterations may have done to them on the strength of the so-called waiver. Yet, many of them may not have been granted any waiver. Through what mechanism can the Secretary ensure that these prescribed commercial premises in industrial buildings are compliant with the requirements of the law?*

SECRETARY FOR SECURITY (in Cantonese): President, if these shops really operate in the revitalized industrial buildings, they must go through the FSD first. We require shops to carry out some alteration works in the revitalized industrial buildings or provide additional fire protection or fire-fighting equipment. These shops will be issued licences only after they have passed the FSD's certification of compliance with requirements.

Mr CHAN has just said that some shops are basically not revitalized industrial buildings but there has been change of use by the operators themselves,

which poses a fire hazard. In that case, we have to rely on inspections by the FSD. I have just said in reply to Mr Jeffrey LAM's supplementary question that the FSD inspected 1 800 old industrial buildings in the past three months and found more than 130 cases with suspected problems. We have already referred these cases to the authorities concerned, such as the Buildings Department, for follow-up.

MR JEFFREY LAM (in Cantonese): *President, besides being concerned about the safety of these buildings or shops, we are also concerned about whether these shops will wantonly fleece customers. Thus, regardless of whether inspections are conducted to find out if there are safety problems or whether these shops fleece customers, if it is found that these shops are involved in any illegal acts, resulting in the revocation of their licences, does the Government have any measures to restrict the shareholders or directors of these companies whose licences have been revoked from reincarnating, that is, applying for operation of such business under other names or the original names?*

SECRETARY FOR SECURITY (in Cantonese): President, I will reflect Mr Jeffrey LAM's view to the Commissioner for Tourism, to see if there are procedures or methods to prevent these black sheep from reincarnating.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Legal Representation Provided by Legal Aid Department

7. **MR LEUNG KWOK-HUNG** (in Chinese): *President, quite a number of members of the public who were granted legal aid have complained to me that the Legal Aid Department (LAD) has often ignored the aided persons' right to select legal representatives by refusing to assign their choice of solicitors or counsel from the relevant legal aid panel (the Panels) to act for them. Some aided persons have even pointed out that the LAD has often adopted the practice of "differentiating between close and distant relationships" in assigning solicitors or counsel, and assigned cases to those who have a good relationship or are well*

acquainted with staff of the LAD, and that staff of the LAD have also taken the initiative to persuade them to engage solicitors or counsel whom they do not trust or are unfamiliar with to handle their cases (in particular personal injuries and criminal cases). In this connection, will the Government inform this Council of:

- (a) the respective number of solicitors and counsel on the respective Panels;*
- (b) the respective numbers of civil or criminal cases assigned to the solicitors or counsel on the Panels in each of the past five years (set out in the table below);*

<i>Year</i>	<i>Number of cases assigned to solicitors</i>	<i>Number of cases assigned to counsel</i>
<i>2005</i>		
<i>2006</i>		
<i>2007</i>		
<i>2008</i>		
<i>2009</i>		

- (c) the respective numbers of solicitors or counsel on the Panels who were not assigned any civil or criminal cases in each of the past five years;*
- (d) the respective numbers of civil or criminal cases in each of the past five years in which the aided persons requested the LAD to assign the solicitors or counsel on the Panels they had selected to act for them, and among such cases, the numbers of those in which the aided persons' requests were refused (set out in the table below); and*

<i>Year</i>	<i>Number of cases in which the aided persons requested LAD to assign the solicitors or counsel on the Panels they had selected to act for them</i>	<i>Number of cases in which the aided persons' requests were refused</i>
<i>2005</i>		
<i>2006</i>		
<i>2007</i>		
<i>2008</i>		
<i>2009</i>		

- (e) *which five law firms and which five counsels on the Panels were assigned the greatest numbers of criminal cases by LAD in each of the past five years, and the annual total amounts of public funds involved (set out in the table below)?*

<i>Year</i>	<i>Names of law firms</i>	<i>Names of counsel</i>	<i>Annual total amount of public funds involved</i>
<i>2005</i>			
<i>2006</i>			
<i>2007</i>			
<i>2008</i>			
<i>2009</i>			

SECRETARY FOR HOME AFFAIRS (in Chinese): President, in respect of the question raised by Mr LEUNG Kwok-hung on "legal representation provided by Legal Aid Department", my response is as follows:

In the assignment of legal aid cases, the LAD adheres to the fundamental principle that the aided person's interest is of paramount importance and that the LAD has a duty to assign competent lawyers to act for aided persons. Legal aid work is therefore not, and should not be, distributed to counsel or solicitors on the Panels evenly regardless of merits.

To this end, the LAD has devised and published guidelines and criteria on assignment of legal aid cases based on experience and expertise of the practitioners. These guidelines and criteria, which have been endorsed by the Legal Aid Services Council and are available at the LAD's website, seek to ensure that the Director of Legal Aid fulfils his duty of assigning competent lawyers. They possess features such as the imposition of limit on the number of assignment and amount of fees paid that aim to facilitate an equitable distribution of legal aid work, thus preventing favoritism. In addition, the LAD's professional officers are required to declare whether there is a conflict of interest when undertaking assignments.

As regards nomination of lawyers by aided persons, the LAD recognizes that confidence in one's own legal representative is essential in the conduct of legal proceedings. As such, the LAD would normally accede to and does not

reject an aided person's choice of lawyer unless there are compelling reasons to do so, such as suspension of the lawyer from general practice, removal of the lawyer from the Panels for poor performance, the language requirement of the proceedings, or that the aided person has made repeated/late requests for change of lawyer without any good reasons in support and where the hearing date is imminent.

The statistical information requested by Mr LEUNG Kwok-hung is as follows:

- (a) As at 15 June 2010, the number of solicitors and counsel on the Panels is 2 115 and 815 respectively.
- (b) The number of civil and criminal assignments to solicitors or counsel on the Panels in the past five years is as follows:

<i>Year</i>	<i>No. of assignments to solicitors</i>		<i>No. of assignments to counsel</i>	
	<i>Civil</i>	<i>Criminal</i>	<i>Civil</i>	<i>Criminal</i>
2005	6 214	2 106	1 037	1 516
2006	7 295	1 901	925	1 416
2007	5 980	1 908	1 131	1 488
2008	5 884	1 693	1 121	1 285
2009	7 334	2 199	1 302	1 706

- (c) As at 15 June 2010, the number of solicitors and counsel on the Panels without any assignment in the past five years is as follows:

Counsel	220
Solicitors	443
Total	663

- (d) The LAD does not keep any data specifically on the number of cases in respect of which the applicants made nominations and the nominations were declined.

Nonetheless, the number of assignments made in accordance with the applicants' nominations in the past five years is as follows:

<i>Year</i>	<i>No. of assignments made in accordance with applicants' nominations</i>
2005	4 178
2006	4 620
2007	4 454
2008	4 631
2009	6 256

- (e) The number of assignments made to the top five assigned solicitors and counsel handling criminal cases and the amount of costs paid in the past five years are as follows:

<i>Year</i>	<i>Top Five Assigned Solicitors^{φ*}</i>	<i>No. of assignments</i>	<i>Amount of costs paid</i>	<i>Top Five Assigned Counsel*</i>	<i>No. of assignments</i>	<i>Amount of costs paid</i>
2005	1st	21	\$278,417.20	1st	18	\$265,828.00
	2nd	20	\$325,673.60	2nd	18	\$279,522.00
	3rd	13	\$196,709.00	3rd	17	\$324,702.50
	4th	13	\$85,057.00	4th	16	\$313,515.50
	5th	13	\$212,461.10	5th	16	\$248,297.50
2006	1st	16	\$185,506.00	1st	22	\$310,508.50
	2nd	14	\$142,717.90	2nd	20	\$837,610.00
	3rd	12	\$180,070.20	3rd	18	\$393,205.00
	4th	12	\$53,832.60	4th	17	\$264,325.00
	5th	12	\$120,590.80	5th	15	\$570,675.00
2007	1st	18	\$93,767.00	1st	18	\$282,322.00
	2nd	14	\$225,606.00	2nd	18	\$391,080.00
	3rd	14	\$174,217.80	3rd	17	\$208,129.00
	4th	13	\$98,290.00	4th	16	\$384,155.00
	5th	13	\$93,951.00	5th	16	\$244,340.00
2008	1st	18	\$259,969.40	1st	19	\$458,515.00
	2nd	16	\$176,128.00	2nd	15	\$621,325.00
	3rd	16	\$257,118.10	3rd	15	\$463,280.00
	4th	12	\$87,514.20	4th	15	\$261,750.00
	5th	12	\$207,084.80	5th	14	\$385,380.00
2009	1st	39	\$354,173.40	1st	26	\$280,250.00
	2nd	26	\$129,777.30	2nd	23	\$37,710.00
	3rd	24	\$95,722.30	3rd	21	\$242,178.00
	4th	24	\$166,771.40	4th	21	\$503,960.00
	5th	20	\$536,601.20	5th	19	\$659,369.00

Notes:

^φ As legal aid cases are assigned to lawyers on an individual basis, LAD does not have any information on the law firms which handle the greatest number of legally-aided cases.

* By virtue of the provisions of the Personal Data (Privacy) Ordinance, LAD is unable to provide the information requested.

Felling of Trees Within Campus of Maryknoll Convent School

8. **MISS TANYA CHAN** (in Chinese): *President, regarding the incident of a Norfolk Island Pine tree in Maryknoll Convent School (the School) being removed some time ago and the question raised by a Member of this Council on 3 March this year on this incident, will the Government inform this Council:*

- (a) *whether the authorities have recorded the details (including the species, quantity, location and health status) of all the trees within the monument boundary in the period starting from three years before the school building cluster of the School was declared to be a monument and thereafter up till now; whether the authorities have paid regular inspection visits to the monument site and examined the tree conditions of the trees since the school was declared to be a monument; if they have not, whether they will review the existing regime;*
- (b) *given that the Secretary for Development had said in her reply to the aforesaid question that "Eurasian Garden Limited and Man Chung Fong Heung Garden, which were engaged by the School, removed a total of 18 trees within the monument boundary in December 2008. The School had not submitted the details of the tree removal works, the commencement date and the estimated completion date of the works in advance to the Executive Secretary of the Antiquities and Monuments Office (AMO) in accordance with the requirements of the permit applicable to tree removal", whether it has assessed if the practice of the School had violated any regulation; if the assessment result is in the affirmative, of an update of the follow-up actions taken by the AMO; if the assessment result is in the negative, the reasons for that;*
- (c) *whether it knows if the School has replanted trees within the monument boundary after removing the aforesaid tree; if it has, whether the school has submitted an application in this regard to the authorities; if such application has been submitted, of the details of vetting and approving the application and provide to this Council a copy of the document; if not, whether the authorities will follow up in accordance with the Antiquities and Monuments Ordinance (the Ordinance) (Cap. 53); whether the authorities have allowed the*

school to plant new trees within the monument boundary and issued guidelines to the school; if they have, a copy of the guidelines;

- (d) given that the authorities issued a Block Permit to the School, allowing the school to carry out "emergency works" to remove trees for the purpose of protecting the monument structure or for public safety and after submitting notification to the AMO, and that regarding the trees on Government land at present, it must be ascertained that a tree constitutes an immediate danger to the public before the authorities consider removing it, whether there is any discrepancy between the terms of the Block Permit and the current tree management policy; if there is discrepancy, whether the authorities have changed their tree management policy; if so, of the details; if not, the reasons for the discrepancy between the terms of the Block Permit and the current policy;*
- (e) given that the Secretary for Development had said in her reply to the aforesaid question that the School had neither submitted the details and descriptions of the proposed works to the AMO and obtained the written notification from the AMO for the commencement of the works, nor informed the AMO subsequently of the commencement date and the estimated completion date of the works, as required by the Block Permit, before the commencement of the drainage works, of the justification for the Government to consider that the drainage works carried out in the school fell under the scope of "Minor Repair and Improvement Works" as specified in the Block Permit; whether the AMO has co-ordinated with other government departments (especially the Education Bureau), in relation to such works; if it has, of the details; if not, the reasons for that; and*
- (f) whether the authorities had, apart from issuing the Block Permit to the School, issued Block Permits to other owners of private monuments in the past five years; if they had, of the number of such cases and their nature, as well as the valid periods of Block Permits, and provide copies of the relevant documents?*

SECRETARY FOR THE ENVIRONMENT (in the absence of Secretary for Development) (in Chinese): President, my reply to the six parts of the question is given below:

- (a) The Ordinance and the permit arrangement under section 6 of the Ordinance aim to protect a place, building, site or structure which has been declared a monument under section 3 of the Ordinance. The school complex of the School is on private land. The trees within the monument boundary of the School are not monuments and the School is responsible for their care. For the above reasons and following the established practice, the AMO has not kept separate records of the trees within the monument boundary of the School, nor has it conducted regular inspections or examinations of these trees after the declaration of the school complex as a monument.

If a monument owner proposes planting or removing any tree at a site near a monument building, the AMO will examine the details of the works and consider the need to take any protective measures. If the proposed works may affect any trees near the works site, the AMO will pay heed and discuss measures for protecting the trees with the monument owner. We consider the current arrangements generally appropriate, but will instruct the Tree Management Office of the Development Bureau and the AMO to liaise more closely with each other and consider providing assistance regarding the management of trees within the boundary of declared monuments.

- (b) Regarding the removal of 18 trees by the School within the monument boundary in December 2008, the AMO has sought information from the School in connection with the obligation of the School to comply with relevant requirements under the Block Permit for carrying out the above works. Having examined the information provided by the School, the AMO is seeking legal advice on the matter.
- (c) According to the information provided to the AMO by the School, the School received a subsidy in 2009 under the Greening School Subsidy Scheme 2009-2010 of the Leisure and Cultural Services Department and carried out greening works on the school campus in

December 2009, including the planting of one Camellia and six Sunshine trees. The planting sites of the abovementioned trees fall within the monument boundary. However, the School had not in advance submitted information such as the details of the planting works to the Executive Secretary of AMO and obtained the written notification from the Executive Secretary for the commencement of the works, nor informed the Executive Secretary subsequently of the commencement date and the estimated completion date of the works, as required by the Block Permit. At the AMO's request, the School has provided information on the case. Having examined the information, the AMO is seeking legal advice on the matter. The Ordinance allows planting of trees within the monument boundary. However, the monument owner concerned must comply with relevant requirements of the Ordinance in carrying out the planting works.

- (d) On preservation of trees on Government land, our policy is to ensure that no trees will be unnecessarily removed. Any decision to remove a tree must take into account all relevant factors, such as the condition of the tree and the potential impact of the tree on human life and property. In handling cases of emergency tree removal, protecting public safety is our foremost consideration.

The Block Permit issued under section 6 of the Ordinance allows the monument owner to carry out necessary emergency works immediately in order to protect public safety and health and to protect the monument from damage due to any accident, emergency or any other events. The spirit of this arrangement is consistent with the policy of tree preservation on Government land.

- (e) With regard to the drainage works carried out by the School within the monument boundary in January 2010, the AMO has sought information from the School in connection with the obligation of the School to comply with relevant requirements under the Block Permit for carrying out the above works. Having examined the information provided by the School, the AMO is seeking legal advice on the matter.

The Block Permit allows the monument owner or his/her agent to carry out necessary minor repair and improvement works and emergency works to keep the monument in good condition and to protect the safety of monument users and general public. The "Minor Repair and Improvement Works" under the Block Permit mainly refer to repair and improvement works to the structures, buildings or other facilities within the monument boundary which do not affect the monument in terms of its structure and appearance, and so on. The drainage works carried out by the School within the monument boundary to replace the underground drains near the monument school building in January 2010 would not touch the monument school building, its braced structure or foundation, and hence would not affect the structure or appearance of the monument. Therefore, the AMO considers that the works fall within the scope of "Minor Repair and Improvement Works" under the Block Permit. The works are required to be carried out in accordance with the procedures stipulated in the permit.

The School had not in advance submitted the details and descriptions of the works to the Executive Secretary of AMO, nor obtained the written notification from the Executive Secretary for commencement of the works before starting the works. Therefore, the AMO had not been able to consult relevant departments as it deemed necessary having regard to the actual circumstance before the works commenced.

- (f) The AMO issued a total of 179 Block Permits to 37 private monument owners in accordance with section 6(1) of the Ordinance between June 2005 and May 2010.

The Block Permits issued between June 2005 and April 2009 were valid for 12 months and allowed monument owners to carry out routine maintenance works specified in the permits in accordance with the requirements of the permits. A template of the permit is at Annex I. The Block Permits issued since May 2009 are valid for 24 months and set out clearly the respective scope of "Routine Maintenance Works", "Minor Repair and Improvement Works" and "Emergency Works" as well as the detailed arrangements concerning notification to the Executive Secretary of AMO. A template of the permit is at Annex II.

Annex I

[Template of Block Permit](version valid before May 2009)

本局檔號 OUR REF. :
來函檔號 YOUR REF. :
電 話 TEL. NO. :
圖文傳真 FAXLINE :

ANTIQUITIES AND MONUMENTS ORDINANCE (CAP. 53)
PERMIT UNDER SECTION 6

----- Pursuant to section 6 of the Antiquities and Monuments Ordinance,
Cap. 53, I HEREBY PERMIT *[Name of the Permit Holder]*, his staff, agents
----- and contractors to carry out routine maintenance work as specified in Appendix
I (“the work”) attached, to *[Name of the Monument]* at *[Address of the
Monument]*, within the area edged red on the plan in Appendix II attached,
subject to the conditions in paragraphs 2 and 3 below.

2. (a) *[Name of the Permit Holder]* shall submit a detailed description of the scope of the work at least three weeks before the commencement of the work to the Executive Secretary of the Antiquities and Monuments Office (“the Executive Secretary”) for vetting.
- (b) At least fourteen days before any work commences, *[Name of the Permit Holder]* shall inform the Executive Secretary of the commencement date and the estimated completion date of the work to enable the Executive Secretary to arrange for the inspection and monitoring of the work, if and when necessary.
- (c) *[Name of the Permit Holder]* shall ensure that the detailed description of the scope of the work as submitted to the Executive Secretary under paragraph 2(a) hereof is complied with whilst carrying out the work.
3. This permit shall expire on the day immediately after the period of twelve months from the date hereof.

(*[Name of the Antiquities Authority]*)
Secretary for Development

[Date of Issue]

[Template of Block Permit](version valid before May 2009)

- | | |
|-------------|---|
| Appendix I | Scope of the works permitted within the monument |
| Appendix II | Plan showing the monument boundary
(There is no template of Appendix II as the boundaries of
declared monuments vary) |

[Template of Block Permit](version valid before May 2009)

Appendix I

[Name of Monument]

Scope of the works permitted within the monument

- (1) Minor repair and replacement of damaged and deteriorated materials, building fabrics, building elements and fittings and the necessary rectification of minor building defects.
- (2) External and internal redecoration to match with the existing colour including cleaning of decorative elements and repainting to plastered areas.
- (3) Routine maintenance of building services installations and their associated minor repair and improvement works. These include installing, laying, removing or repairing of cables, as well as lighting, pipework, drainage, air-conditioning, security and fire services systems.
- (4) Minor repair and routine maintenance to roof including roof support system, roof tiles, roof decoration and water-proofing layer and materials.
- (5) Treatment for the prevention and eradication of termites and other pests, including minor associated remedial work.
- (6) Routine maintenance, repair and minor improvement to fences, gates, signs and notice-boards.
- (7) Routine maintenance, repair and cleaning of the open courtyard, external paving, slopes, retaining walls, paths, steps, paved road surfaces, ditches, manholes and outdoor drains.
- (8) Routine maintenance, repair and improvement to soft and hard landscaping, including pruning of trees and clearance of wild vegetation.
- (9) Temporary supporting or strengthening work, including scaffolding, shoring or any similar protective work, as well as the installation and removal of temporary fences, benches, notices and monument plaque.
- (10) Structural or site investigation work required in connection with the overall stability and maintenance of the building.

Annex II

[Template of Block Permit](revised version valid from May 2009 onwards)

本局檔號 OUR REF. :
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**PERMIT UNDER SECTION 6 OF
ANTIQUITIES AND MONUMENTS ORDINANCE (CAP. 53)**

Pursuant to Section 6(1) of *the Antiquities and Monuments Ordinance (Cap. 53)* (“*the Ordinance*”), this Permit is issued by me, being the Authority under the Ordinance, to the Permit Holder as specified in *paragraph 3* below.

Purpose

2. The purpose of this Permit is to allow the Permit Holder, his staff, agents and contractors, and any person(s) who is/are duly authorized by the Permit Holder to carry out the works specified in this Permit to the Monument specified in *paragraph 3* below (the Monument), to carry out the works as specified in this Permit to the Monument. For the above purpose, the Permit Holder, his staff, agents and contractors, and any person(s) who is/are duly authorized by the Permit Holder to carry out the works, as specified in this Permit, to the Monument shall strictly observe and comply with all terms and conditions of this Permit.

Details of Permit Holder and Monument

3. (a) Name of the Permit Holder:

(b) Name of the Monument:

Address of the Monument:

Boundary/Area of the Monument:

As shown in red on the plan in *Appendix I* of this Permit

[Template of Block Permit](revised version valid from May 2009 onwards)

Permitted Works

4. *Routine Maintenance*

The Permit Holder, his staff, agents and contractors, and any person(s) who is/are duly authorized by the Permit Holder to carry out the routine maintenance works (as specified in this Permit) to the Monument is/are permitted to carry out routine maintenance to the Monument for the purpose of keeping the Monument in good and clean condition, including but not limited to daily cleaning and gardening works, termite and pest control and other non-evasive works relating to the management of the Monument, regular maintenance such as modern building services installations and their associated repair and like with like replacement of consumable fittings and elements. In any event, no routine maintenance should destruct, obstruct, deface, interfere or in any other way cause harm or damage of whatsoever nature to the Monument.

5. *Minor Repair and Improvement Works*

Subject to the conditions in *paragraphs 5.1 to 5.4* below, the Permit Holder, his staff, agents and contractors, and any person(s) who is/are duly authorized by the Permit Holder to carry out the “minor repair and improvement works” to the Monument (as defined hereunder) (while such authorization shall only be given by the Permit Holder upon due compliance of the conditions in *paragraphs 5.1 to 5.4* below) are permitted to carry out *minor repair works (other than routine maintenance as specified in paragraph 4 above) and minor improvement works* (collectively referred to as “*minor repair and improvement works*”) to the Monument within the scope as specified in *Appendix II* of this Permit.

- 5.1 Within fifteen working days or such time as may be agreed and allowed by the *Executive Secretary of the Antiquities and Monuments Office* (“*the Executive Secretary*”) before commencing the minor repair and improvement works, the Permit Holder shall submit the details and descriptions of the proposed works by means of plans, drawings, photos, specifications, method statements and/or other formats of presentation to the Executive Secretary.
- 5.2 In any event, if the Executive Secretary is in the opinion that any of the details and descriptions of the proposed works submitted by the Permit Holder does not comply with, substantially deviate from or does not fall within the permitted scope of minor repair and improvement works as specified in *Appendix II* of this Permit, or that the proposed works shall or may potentially cause any harm or damage to the Monument, the Permit Holder is not allowed to commence any of the proposed works to the Monument. The Permit Holder shall amend the details of the proposed works until the Executive Secretary agrees that they all in

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compliance with, in-principle the same as or fall within the permitted scope of minor repair and improvement works as specified in *Appendix II* of this Permit. In any event, the Permit Holder is not allowed to commence any of the proposed works unless and until the Executive Secretary gives written notification to the Permit Holder that he may do so.

- 5.3 Upon receiving written notification by the Executive Secretary for commencement of the works, the Permit Holder shall, at least ten working days or such time as may be agreed and allowed by the Executive Secretary before the commencement of the works, in writing inform the Executive Secretary of the actual commencement date and the estimated completion date of the works.
- 5.4 In the event that the Permit Holder, his staff, agents, and/or contractors, and/or any person(s) who is/are duly authorized by the Permit Holder to carry out the minor repair and improvement works to the Monument may wish to use any different types of materials, designs or structures for the works, or make any changes to the works details, the Permit Holder shall submit the details of changes to the Executive Secretary. Procedures specified in *paragraphs 5.2 and 5.3* would follow and the above submission of changes to works details will be dealt with in the same manner as the submission of details and descriptions of the proposed works specified in *paragraphs 5.1 to 5.3*. In any event, the changes are not allowed to be implemented unless and until the Executive Secretary gives written notification to the Permit Holder that the changes could be implemented.

6. *Emergency Works*

Subject to the conditions in *paragraphs 6.1 to 6.7* below, the Permit Holder, his staff, agents and contractors, and any person(s) who is/are duly authorized by the Permit Holder to carry out the emergency works to the Monument are permitted to carry out emergency works to the Monument where any accident, emergency, or any other event renders it necessary to carry out the emergency works immediately for ensuring public safety and health, the structural stability of the Monument, and/or for making safe any existing building, land, pathway or other structures within the Monument. Definition and permitted scope of emergency works are specified in *Appendix III* of this Permit.

- 6.1 The Permit Holder, his staff, agents, and/or contractors, and/or any person(s) who is/are duly authorized by the Permit Holder to carry out the emergency works to the Monument who is/are engaged to supervise or carry out the emergency works shall give a written notice to the Executive Secretary in the specified form in *Appendix IV* of this Permit. Such written notice shall be given to the Executive Secretary before

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commencement of the emergency works, unless it is in the view of the Permit Holder in the light of the need for the emergency works that it is not practicable to provide such prior written notice to the Executive Secretary and in any such case, the written notice shall be given to the Executive Secretary within 48 hours of the commencement of the emergency works.

- 6.2 Within ten working days after the date of giving written notice in *paragraph 6.1* above or such time as may be agreed and allowed by the Executive Secretary, the Permit Holder shall submit the details and descriptions of the emergency works by means of plans, drawings, photos, specifications, method statements and/or other formats of presentation to the Executive Secretary if and when requested by the Executive Secretary.
- 6.3 After submission of written notice in *paragraph 6.1* by the Permit Holder, if the Executive Secretary is in the opinion that any of the emergency works or any of their details and descriptions submitted by the Permit Holder under *paragraph 6.2* above does not comply with, substantially deviate from or does not fall within the permitted scope of emergency works as specified in *Appendix III* of this Permit, or that the emergency works have caused or shall or may potentially cause any harm or damage to the Monument, the Permit Holder shall stop and/or cause to stop any of the emergency works upon notification given by the Executive Secretary and in accordance with the instructions as set out and specified in the notification. In any event, the Permit Holder is not allowed to continue with any of the emergency works unless and until the Executive Secretary gives written notification to the Permit Holder that he may do so.
- 6.4 For the reason of protecting public safety and health, protecting and/or preserving the Monument, or for any other reason, if the Executive Secretary considers necessary or appropriate to impose time limit within which the emergency works should be completed, the Permit Holder, his staff, agents, and/or contractors, and/or any person(s) who is/are duly authorized by the Permit Holder to carry out the emergency works to the Monument shall observe and comply with such time limit imposed on him/them.
- 6.5 In the event that the Permit Holder, his staff, agents, and/or contractors, and/or any person(s) who is/are authorized by the Permit Holder to carry out the emergency works to the Monument may wish to use any different types of materials, designs or structures for the works, or make any changes to the emergency works details, the Permit Holder shall submit the details of changes to the Executive Secretary. Procedures specified in *paragraphs 6.3 and 6.4* would follow and the above

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submission of changes to emergency works details will be dealt with in the same manner as the submission of written notice, details and descriptions of the emergency works specified in *paragraphs 6.1 to 6.4*.

- 6.6 In any event, the Permit Holder, his staff, agents, contractors, and/or any person(s) who is/are authorized by the Permit Holder to carry out the emergency works to the Monument shall carry out the emergency works with due diligence and he/they should, at his/their best endeavors, ensure that appropriate and sufficient protective measures are provided such that no harm or damage would be caused to the Monument, and that future restoration or repair to the Monument would not be in any way obstructed after the emergency works. In the event that disturbance to the historic fabric or any other structure(s) or part(s) of the Monument is/are inevitable while carrying out the emergency works, the Permit Holder, his staff, agents, contractors, and/or any person(s) who is/are duly authorized by the Permit Holder to carry out the emergency works to the Monument shall keep such disturbance to the minimum.
- 6.7 When the Executive Secretary considers that the emergency no longer exists and/or the emergency works are no longer necessary, the Permit Holder, his staff, agents, contractors, and/or any person(s) who is/are duly authorized by the Permit Holder to carry out the emergency works to the Monument shall immediately stop the works upon notification given by the Executive Secretary and in accordance with the instructions as set out and specified in the notification, unless my written permission for continuance of the works is obtained.

Revocation

7. The Permit Holder has duty and obligation to ensure that all works carried out in the Monument are permitted by this Permit. The Permit Holder shall also carry out and/or cause to carry out the permitted works in accordance with all terms and conditions of this Permit. When the Executive Secretary finds that any works, procedures or other matters carried out by the Permit Holder, his staff, agents, contractors, and/or any person(s) who is/are authorized by the Permit Holder to carry out the works as specified in this Permit to the Monument are not in compliance with the terms and conditions of this Permit, and/or that harm or damage would be or would potentially be caused to the Monument, the Executive Secretary may notify the Permit Holder to stop the works. If and when considered appropriate, and for the preservation of the Monument, I may revoke this Permit when there are non-compliance, incompetence, wrong-doing and/or negligence on the Permit Holder's part. Upon notification to stop the works or revocation of this Permit, the Permit Holder shall immediately stop or cause to stop the works immediately or as required.

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Executive Agent and Its Role

8. For the purposes of this Permit, my executive agent, namely the Executive Secretary, shall execute and carry out all administrative duties and/or other procedures as I consider appropriate for the operation and enforcement of this Permit. Such administrative duties and/or other procedures include, but are not limited to, those specified in this Permit. I shall, through the Executive Secretary, keep the Permit Holder informed on all such matters as may appear to the Executive Secretary to affect the rights, obligations and duties of the Permit Holder under this Permit. In the event that there are subsequent change(s) to my executive agent within the validity period of this Permit, I shall, through the new executive agent, in writing inform the Permit Holder of such change(s).

9. The Executive Secretary shall scrutinize all details and descriptions of the proposed works and the emergency works submitted by the Permit Holder under *paragraphs 5 and 6* of this Permit and check that they are all in compliance with, in-principle the same as or fall within the permitted scope of works as specified in *Appendix II* and *Appendix III* of this Permit.

10. The Executive Secretary shall arrange for inspection and monitoring of the works, if and when necessary.

Expiry

11. This Permit shall commence on *[Date]* and expire on *[Date]* (both dates inclusive).

Outstanding Works

12. If and only if there are any outstanding works authorized by this Permit at the expiry of this Permit which have commenced but not been completed by the Permit Holder, such outstanding works may be completed in terms and conditions of this Permit notwithstanding that it will be carried out by the Permit Holder after the expiry of this Permit, provided that the Permit Holder shall have notified in writing the Executive Secretary of the details of such outstanding works at least seven working days before the expiry, and provided also that no such outstanding works may be carried out after thirty calendar days beyond the expiry date of this Permit.

(*[Name of the Authority]*)

Secretary for Development,
The Authority under the Antiquities
and Monuments Ordinance (Cap. 53)

[Date of Issue]

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Appendix I	Plan showing the monument boundary (There is no template of Appendix I as the boundaries of declared monuments vary)
Appendix II	Scope of the minor repair and improvement works permitted within the monument
Appendix III	Definition of emergency works & scope of emergency works for the monument
Appendix IV	Notice of emergency works required as a result of accident or emergency

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Appendix II

Scope of Minor Repair and Improvement Works **Permitted within the *[Name of Monument]***

- (1) Minor repair and replacement of damaged and deteriorated historic fittings and fixture.
- (2) External and internal redecoration, such as special cleaning of decorative elements and repainting of plastered areas.
- (3) Minor alteration and improvement works of building services installations and their associated. For examples, installing, laying electrical, plumbing, drainage, air-conditioning and ventilation, security and fire services systems.
- (4) Minor repair and improvement works to roof.
- (5) Minor repair and improvement works of fences, gates, signs and notice-boards.
- (6) Minor repair and improvement works of the open courtyard, external paving, slopes, retaining walls, paths, steps, paved road surfaces, ditches, manholes and outdoor drains.
- (7) Minor repair and improvement works to soft and hard landscaping.
- (8) Temporary supporting or strengthening works, such as scaffolding, shoring or any similar protective works, as well as the installation and removal of temporary fences, benches and notices.
- (9) Structural or site investigation works involving opening up and minor destructive testings in connection with the overall stability and maintenance of the building.

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Appendix III

Definition of Emergency Works

Emergency works generally embrace works that are rendered necessary to be carried out due to any accident, emergency, or any other event for the purposes of ensuring public safety and health, the structural stability of the Monument, and/or making safe any existing building, land, pathway or other structures within the Monument.

Scope of Emergency Works for the *[Name of Monument]*

1. Removal of unstable fixtures, building elements and vegetations which may cause damage to properties, occupants or public at large.
2. Emergency repair to defective plumbing, drainage, electrical and building services systems.
3. Temporary replacement of defective fixtures, building elements at the external of the building and compound which, if unfixed, will pose further damage to properties.
4. Emergency clearing of landslides, provision of temporary protection works and removal of dangerous vegetations on slopes after natural disasters.

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Appendix IV

**Notice of emergency works required as
a result of accident or emergency**

To the Executive Secretary (Antiquities & Monuments)

(Fax: 2721 6216 / Email: amo@lcsd.gov.hk)

In accordance with the provisions of paragraph 6 of the Block
Permit under section 6 of the Antiquities and Monuments Ordinance (Cap. 53),

*I/we (name in full) _____

(Chinese) _____

hereby given notice that *an accident/emergency, namely

_____ *occurred/ arose at (here state the site where may or may not be within the
monument boundary)

_____ on (date) _____.

*I/We, being *the Permit Holder/staff/agent/contractor of the
Permit Holder/ the person(s) duly authorized by the Permit Holder to carry out
the emergency works to the Monument for the (monument)

intend to *carry out/have carried out the following emergency work(s) which

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*is/ are necessitated by the above *accident/emergency:

*I/We have engaged the following to carry out the above
emergency work(s): -

Capacity	Name in full & Name in Chinese	Address	Tel. No. & Fax. No.
Staff			
Agent			
Contractor [#]			
Authorized person			

*The following has/have been engaged to supervise the above
emergency work(s): -

Capacity	Name in full & Name in Chinese	Address	Tel. No. & Fax. No.
Staff			
Agent			

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Date: _____ Signature: _____

Organization: _____

Address: _____

Post: _____ Tel.: _____

Fax: _____ Email: _____

* Delete whichever is inapplicable

Please specify if it is a registered specialist contractor in a particular category

(version of May 2009)

Locations of Polling Stations for 2010 Legislative Council By-election

9. **MR ALBERT CHAN** (in Chinese): *President, recently, I have received a large number of complaints from members of the public pointing out that in the Legislative Council By-election held on 16 May this year, the locations of quite a number of polling stations were far away from those set up in the 2008 Legislative Council Election for the same districts. Some polling stations were even set up at the end of slopes, causing great inconvenience to the elderly and persons with disabilities. Moreover, on the day of the By-election, quite a number of electors called the Registration and Electoral Office (REO) to enquire about the locations of the polling stations, but they were not able to contact any staff. Even when some members of the public made their enquiries by leaving telephone messages, REO staff failed to return call before 10.30 pm that night. In this connection, will the Government inform this Council of:*

- (a) the polling stations for the 2010 Legislative Council By-election which replaced those for the 2008 Legislative Council Election, and list in table form by geographical constituency, the serial numbers of such polling stations and the names of the District Council districts in which they were located; the reasons for their being chosen as the polling stations for the 2010 By-election, as well as the locations of the polling stations for the 2008 Legislative Council Election which had been replaced, and the reasons for their not being chosen as the polling stations for the 2010 By-election; and*
- (b) the number of enquiries received by the REO between 14 and 16 May this year regarding the locations of the polling stations and, among such enquiries, the respective numbers of those made through telephone messages and those replied by the REO on or before 16 May, as well as the reasons for the REO failing to reply some of such enquiries before the closing time of the aforesaid By-election?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President,

- (a) In the 2010 Legislative Council By-election, polling stations were not set up at some of the venues where polling stations were set up in

the 2008 Legislative Council Election mainly because the venues concerned were not available or the REO had identified locations which are more convenient or accessible to persons with disabilities in the districts concerned. For venues not available for use again in the By-election, the REO set up alternative polling stations at other suitable locations nearby or allocated the electors concerned to other polling stations in the vicinity for voting. The relevant information is at the Annex.

- (b) According to the classification of telephone enquiries by the REO for the 2010 Legislative Council By-election, enquiries concerning the locations of the polling stations are classified under the category of the locations of polling station, receipt of poll cards and polling arrangement.

The REO received a total of 2 832 telephone enquiries in the above category, including 350 voice mails, on 14 and 15 May 2010. Three hundred and twenty-two of the voice mails provided clear and complete telephone numbers and the REO staff had replied to the relevant enquiries accordingly by noon on 16 May 2010. For the remaining 28 voice mails, they either left incorrect telephone numbers or did not leave any contact numbers, and thus the REO was not able to contact the callers.

In order to handle the large number of telephone enquiries on the polling day of the By-election, the REO deployed a significant number of staff to answer telephone enquiries. The REO and the 1823 Call Centre* of the Government received 22 384 and 3 123 telephone enquiries in the above category respectively from 7 am to 10.30 pm on 16 May 2010. According to the records of the telephone system, the REO and the 1823 Call Centre had answered all telephone calls received on 16 May 2010 and there was no voice mail.

* If the REO Hotline was fully engaged, any further incoming calls would be forwarded to the 1823 Call Centre of the Government. Staff of the Call Centre would handle the general enquiries immediately. For individual enquiries which could not be answered by the Call Centre, they would be referred to the REO for following up.

Annex

Polling Stations that were set up at different locations
in the 2008 Legislative Council Election and in the 2010 Legislative Council By-election

<i>Polling Stations in the 2008 Legislative Council Election</i>				<i>Polling Stations in the 2010 Legislative Council By-election</i>		
<i>Code of Polling Station</i>	<i>Location</i>	<i>Name of District Council Constituency</i>	<i>Reasons for Not Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>	<i>Code of Polling Station</i>	<i>Location</i>	<i>Reasons for Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>
A0101	SKH Kei Yan Primary School	Chung Wan	Not available for use	A0101	Joint Professional Centre	Available for use
A0401	St. Paul's Co-educational College	Peak	Availability of bigger venue	A0401	St. Joseph's College	Larger and available for use
A0501	St. Stephen's Girls' College	University	Not available for use	See Note		
A1101	Agency for Volunteer Service Volunteer Action Centre	Sai Ying Pun	Not available for use	A1101	Li Sing Primary School	Available for use
A1302	Lok Sin Tong Leung Kau Kui College	Tung Wah	Not accessible to wheelchair users	A1302	SKH St. Matthew's Primary School	Accessible to wheelchair users and available for use
B0301	Hong Kong Christian Service Times Nursery School	Canal Road	Inconvenient location	B0301	Singapore International School (Hong Kong)	Convenient location and available for use
B0901	SKH St. James' Primary School	Stubbs Road	Not available for use	See Note		
B0902	Marymount Secondary School	Stubbs Road	Construction works outside	B0901	Precious Blood Primary School	Available for use
C0601	Shaukiwan Tsung Tsin School	A Kung Ngam	Inconvenient location	C0601	SKH Holy Nativity Church Kindergarten	Convenient location and available for use
C1101	Fukien Secondary School (Siu Sai Wan)	King Yee	Not available for use	C1101	Pui Kiu Primary School	Available for use
C1601	PLK Choi Kai Yau School (Tin Hau Campus)	Tin Hau	Removal of the school	C1601	Cheung Chuk Shan College	Available for use
C2501	North Point Government Primary School	Quarry Bay	Not available for use	See Note		
C3201	Methodist Epworth Village Community Centre, Social Welfare-Epworth Integrated Youth Team (Yiu Tung Base)	Upper Yiu Tung	Not available for use	C3201	Hong Kong Rehabilitation Power	Available for use

<i>Polling Stations in the 2008 Legislative Council Election</i>				<i>Polling Stations in the 2010 Legislative Council By-election</i>		
<i>Code of Polling Station</i>	<i>Location</i>	<i>Name of District Council Constituency</i>	<i>Reasons for Not Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>	<i>Code of Polling Station</i>	<i>Location</i>	<i>Reasons for Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>
D0302	Hong Kong True Light College	Ap Lei Chau North	Not available for use	See Note		
D0701	South Horizons Neighbourhood Community Centre	South Horizons West	Not available for use	D0701	Victoria (South Horizons) International Kindergarten	Available for use
D1301	Caritas Jockey Club Aberdeen Social Centre	Tin Wan	Not available for use	D1301	Caritas Oswald Cheung International House	Available for use
E1001	The Mong Kok Kai-Fong Association Ltd. Chan Hing Social Service Centre	Tai Kok Tsui North	Not accessible to wheelchair users	E1001	Fresh Fish Traders' School	Accessible to wheelchair users and available for use
E1301	Hong Kong & Kowloon Chiu Chow Public Association Secondary School	Mong Kok East	Not available for use	E1301	Boundary Street Sports Centre No. 1	Available for use
F1401	HKU SPACE — Kowloon West Campus	Mei Foo North	Availability of more convenient venue	F1401	Lai Chi Kok Park Sports Centre	More convenient and available for use
F1601	Buddhist Tai Hung College	So Uk	Not available for use	F1601	Vocational Training Council Youth College (So Uk)	Available for use
F2102	Ho Chak Neighbourhood Centre for Senior Citizens (Sponsored by Sik Sik Yuen)	Lung Ping & Sheung Pak Tin	Availability of more convenient venue	F2102	Chak On Centre, the City University of Hong Kong	More convenient and available for use
G0301	ELCHK Hung Hom Lutheran Primary School	Ma Tau Kok	Not available for use	G0301	PLK Lam Man Chan English Primary School	Available for use
G0501	Yang Memorial Methodist Social Service Homantin Integrated Centre For Youth Development	Sheung Lok	Not available for use	G0501	Fat Kwong Street Sports Centre	Available for use
G1401	CCC Kei To Secondary School	To Kwa Wan South	Not available for use	G1401	Holy Angels Canossian School	Available for use

<i>Polling Stations in the 2008 Legislative Council Election</i>				<i>Polling Stations in the 2010 Legislative Council By-election</i>		
<i>Code of Polling Station</i>	<i>Location</i>	<i>Name of District Council Constituency</i>	<i>Reasons for Not Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>	<i>Code of Polling Station</i>	<i>Location</i>	<i>Reasons for Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>
G1701	Hong Kong Children And Youth Services Jockey Club Fong Shu Chuen Integrated Children And Youth Services Centre	Whampoa West	Not available for use	G1701	Ma Tau Chung Government Primary School (Hung Hom Bay)	Available for use
G2101	SKH Holy Trinity Church Secondary School	Oi Man	Not available for use	G2101	Ho Man Tin Sports Centre	Available for use
H0201	Confucian Tai Shing Primary School	Lung Ha	Not available for use	H0201	SKH Kei Tak Primary School	Available for use
H0601	Conference Room, 1/F, Fung Tak Estate Community Centre	Lung Sing	Small area and inconvenient location	H0601	BGCA of HKJC Tsz Wan Shan Children & Youth Integrated Services Centre	Larger area at convenient location and available for use
H0702	Canossa Primary School (San Po Kong)	San Po Kong	Not available for use	H0702	Cognitio College (Kowloon)	Available for use
H1001	Morse Park Sports Centre	Lok Fu	Inconvenient location	H1001	St. Patrick's School	Convenient location and available for use
H1302	Carbo Anglo-Chinese Kindergarten (Former Site)	Tsui Chuk & Pang Ching	Not available for use	See Note		
H1601	Ho Lap Primary School (Sponsored by Sik Sik Yuen)	Tsz Wan West	Not available for use	H1601	BGCA of HKJC Tsz Wan Shan Children & Youth Integrated Services Centre (Tsz Lok Branch)	Available for use
H2001	SKH Kei Sum Primary School	King Fu	Not available for use	H2001	HK Playground Association Jockey Club King Fu Integrated Service Centre for Children & Youth	Available for use
J0101	Kwun Tong Government Primary School	Kwun Tong Central	Not available for use	See Note		
J1201	Chan Mung Yan Lutheran Kindergarten	Hiu Lai	Not available for use	J1201	Hiu Kwong Street Sports Centre	Available for use

<i>Polling Stations in the 2008 Legislative Council Election</i>				<i>Polling Stations in the 2010 Legislative Council By-election</i>		
<i>Code of Polling Station</i>	<i>Location</i>	<i>Name of District Council Constituency</i>	<i>Reasons for Not Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>	<i>Code of Polling Station</i>	<i>Location</i>	<i>Reasons for Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>
J1902	Lei Yue Mun Methodist Kindergarten	Yau Tong East	Not available for use	See Note		
J2601	Kwun Tong Maryknoll College	Po Lok	Not available for use	J2601	Chung Sing Benevolent Society	Available for use
J3102	St. Matthew's Lutheran School	Ngau Tau Kok	Closure of the school	See Note		
J3301	SKH Kei Lok Primary School	Lok Wah North	Not available for use	J3301	Lok Sin Tong Yeung Chung Ming Primary School	Available for use
K0802	Chuen Lung Village Rural Committee Office	Allway	Not available for use	See Note		
K1301	Liu Po Shan Memorial College	Luk Yeung	Not available for use	K1301	Tsuen Wan District Office ex-Public Enquiry Services Centre	Available for use
L0101	Exhibition Gallery, Tuen Mun Town Hall	Tuen Mun Town Centre	Not available for use	L0101	Ad & Fd of Pok Oi Hospital Mrs Cheng Yam On School	Available for use
L0902	YPICA Lee Lim Ming College	King Hing	Not available for use	L0902	Caritas Tuen Mun Marden Foundation Secondary School	Available for use
L2002	Ju Ching Chu Secondary School (Tuen Mun)	Lung Mun	Not available for use	L2002	Yan Chai Hospital No. 2 Secondary School	Available for use
L2401	ELCHK Tuen Mun Integrated Youth Service Centre	Po Tin	Not available for use	L2401	CCC Mong Wong Far Yok Memorial Primary School	Available for use
M0801	Shung Ching School	Shap Pat Heung South	Not available for use	M0801	Former Vichy Kindergarten	Available for use
M1001	Wang Chau Public School	Ping Shan North	Not available for use	See Note		
M1103	Shung Tak Catholic English College	Ha Tsuen	Not available for use	M1103	Ha Tsuen Rural Committee	Available for use
M2801	Toi Shan Public School (Former)	Pat Heung North	Not available for use	See Note		
S0201	TWGHs Chen Zao Men College	Kwai Shing East Estate	Not available for use	S0201	Daughters of Mary Help of Christians Siu Ming Catholic Secondary School	Available for use

<i>Polling Stations in the 2008 Legislative Council Election</i>				<i>Polling Stations in the 2010 Legislative Council By-election</i>		
<i>Code of Polling Station</i>	<i>Location</i>	<i>Name of District Council Constituency</i>	<i>Reasons for Not Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>	<i>Code of Polling Station</i>	<i>Location</i>	<i>Reasons for Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election</i>
S2102	Tsing Yi Sports Centre	Greenfield	Not available for use	S2102	PLK Castar Primary School	Available for use
S2201	Cheung Ching Estate Community Centre	Cheung Ching	Not available for use	S2201	Father Cucchiara Memorial School	Available for use
T0501	Ching Chung Hau Po Woon Primary School	Tung Chung South	Not available for use	T0501	Po On Commercial Association Wan Ho Kan Primary School	Available for use
N0201	Fanling Public School	Fanling Town	Not available for use	See Note		
N0401	HHCKLA Buddhist Ching Kok Lin Association School	Wah Do	Not available for use	N0401	Wo Hing Sports Centre	Available for use
N0803	Ku Tung Public Oi Wah School	Sheung Shui Rural	Not available for use	N0803	Sheung Shui Pui Yau Kindergarten	Available for use
N1002	Chinese Christian Workers' Fellowship Limited Choi Po Kindergarten	Choi Yuen	Not available for use	See Note		
N1301	Lee Chi Tat Memorial School	Fung Tsui	Not available for use	N1301	Fung Kai Liu Man Shek Tong Secondary School	Available for use
P0901	Tai Po Baptist Public School	Wang Fuk	Not available for use	P0901	Kwong Fuk Community Hall	Available for use
P1302	Lions Club Lam Tsuen Youth Centre	Lam Tsuen Valley	Not available for use	See Note		
P1303	Tai Hang Public School	Lam Tsuen Valley	Not available for use	See Note		
P1601	Buddhist Chi Hong Chi Lam Memorial College	Old Market & Serenity	Not available for use	P1601	Tai Po Sam Yuk Secondary School	Available for use
Q0501	Cheng Chek Chee Secondary School of Sai Kung & Hang Hau District N.T.	Hang Hau West	Not available for use	See Note		
Q0602	Creative Secondary School	Wan Po	Not available for use	See Note		

Polling Stations in the 2008 Legislative Council Election				Polling Stations in the 2010 Legislative Council By-election		
Code of Polling Station	Location	Name of District Council Constituency	Reasons for Not Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election	Code of Polling Station	Location	Reasons for Setting up Polling Station at Relevant Location at 2010 Legislative Council By-election
Q1001	POH 80th Anniversary Tang Ying Hei College	O Tong	Not available for use	Q1001	Yan Chai Hospital Wong Wha San Secondary School	Available for use
R0101	Sha Tin Town Hall	Sha Tin Town Centre	Not available for use	See Note		
R2502	YCH Tung Chi Ying Memorial Secondary School	Sunshine City	Not available for use	R2502	TWGHs Wong Fung Ling College	Available for use
R2901	Sir Ellis Kadoorie Secondary School (Sha Tin)	Yiu On	Not available for use	R2901	PLK Chong Kee Ting Primary School	Available for use

Note:

As no suitable venues were identified as alternative polling stations in the respective districts, the electors concerned were allocated to polling stations in the vicinity for voting.

Supply of Live Poultry

10. **MR TOMMY CHEUNG** (in Chinese): *President, it has been reported that in early June this year, the Secretary for Food and Health indicated to the media that live chickens in Hong Kong could now be regarded as luxury goods and such an phenomenon could be related to the prevailing policies, yet the authorities would neither increase the supply of Mainland live chickens to Hong Kong nor relax control over the number of live chickens kept at local farms, so as to bring down the prices of live chickens. Moreover, the University of Hong Kong (the HKU) announced that it had discovered a compound that could attack influenza viruses, and would further develop the compound into a new target therapy drug for treating influenza. By then, viruses such as avian influenza (AI), Human Swine Influenza and influenza A may be inhibited more effectively. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if the phenomenon that live chickens can be regarded as luxury goods is related to the authorities' prevailing policies; if the assessment result is in the negative, how the authorities strike a balance between safeguarding the consumers' interests of members of the public and safeguarding their health, so*

as to avoid the retail prices of live chickens from soaring persistently, and ensure that members of the public will not find live chickens unaffordable due to financial reasons;

- (b) given that the authorities have pointed out that following the ban on overnight keeping of live poultry in retail markets, the loading of influenza A virus, which is an AI virus, has been decreasing significantly, whether the authorities will consider increasing the number of imported live chickens and those kept at local farms appropriately; if they will, of the details;*
- (c) whether the authorities have estimated the percentage increase in the risk of human infection by AI viruses when the supply of live chickens imported from the Mainland increases from a daily average of 7 000 chickens at present to 140 000 chickens; if they have, of the methodology and the outcome of the estimate; if not, why they have refused to increase the supply of Mainland live chickens to Hong Kong without conducting such an estimate; and*
- (d) given that some members of the catering industry have indicated that the competitiveness of Hong Kong as a culinary capital has been declining gradually due to the lack of supply of live waterfowl, whether the authorities will consider allowing the supply of an appropriate number of waterfowl such as live ducks, geese and pigeons to be resumed in the market, or supplying them to restaurants under specific control measures, so that traditional cuisines prepared with live waterfowl can continue to be offered; if they will not, whether they will reconsider relaxing control over the sale of live waterfowl after the anti-influenza drug is successfully developed by the HKU?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, over the years, the Government's primary consideration in introducing measures at different levels of the live poultry supply chain is to minimize the risk of AI infection, in order to protect public health. Like all influenza viruses, the AI virus changes constantly in response to changes in the environment and hosts. As such, health authorities around the world always remain highly vigilant to

guard against the outbreak of an epidemic. Besides, the World Health Organization has recently pointed out that the emergence of new confirmed cases of AI infection in human and poultry over the past few months shows that the virus still poses a threat to human health. Nevertheless, as experts all over the world have obtained better understanding of the propensity of the AI virus over the past few years and have adopted targeted measures to prevent AI, the risk of human infection of highly pathogenic avian influenza (HPAI) has been kept at a relatively low level.

In late 2009/early 2010, the Government conducted a scientific assessment to evaluate the risk of human infection by AI viruses associated with the live poultry trade in Hong Kong. The Scientific Committee on Emerging and Zoonotic Diseases (Scientific Committee), chaired by Prof YUEN Kwok-yung and comprising doctors, veterinarians, microbiologists and other experts, discussed the assessment report on 26 March 2010. The Scientific Committee agreed that the risk of AI to Hong Kong has been significantly reduced in recent years. It confirmed the efficacy of the control and surveillance measures at all levels. However, as the situation would keep changing, the Scientific Committee suggested that we need to maintain vigilance against AI and that the existing measures should be maintained and reinforced.

To consistently and effectively contain the risk of AI at a low level, the Government will keep the number and maximum rearing capacity of local chicken farms, as well as the number of live poultry retail outlets unchanged. Besides, the daily quantity of imported live chickens will not increase. The ban on the keeping of live poultry overnight in retail markets imposed since July 2008 will also continue to be in force. At the same time, we will enhance the AI preventive and control measures implemented at various levels of the live poultry supply chain, and increase the number of test samples at the import, wholesale and retail levels.

The reply to the different parts of the question is as follows:

- (a) In the past year, the supply of live chickens is sufficient and stable. The wholesale price of live chickens was also generally stable last year. The weighted average wholesale price in the first half of this year is lower compared to the same period last year, but as usual, there is greater price volatility before festivals. As for retail price,

apart from the greater volatility during festive times, price variation is also observed across districts. In sum, the retail price of live chickens depends on a basket of factors such as weather, season, supply, location of retail outlets and festive times, and so on.

There is a plentiful supply of chilled and frozen chickens in the market. With the advancement in the technology for producing chilled food products, the texture and taste of chilled chickens have become increasingly close to those of live chickens. In recent years, members of the public are consuming more chilled and frozen chickens. The consumption rate rose from 79% in 2004 to 94% in 2009, revealing an increasing preference for chilled and frozen chickens. The public can choose from among different types of chickens according to their own preference and affordability.

(b) and (c)

As mentioned above, in order to consistently keep the risk of AI at a low level, the Government will not raise the number of local chicken farms, the maximum rearing capacity or the daily quantity of imported live chickens. Neither will it increase the number of live poultry retail outlets. The success in reducing the risk of AI in Hong Kong to the present low level is the result of the implementation of various preventive and control measures at the farm, wholesale, retail and import levels over the past years and is indeed not easy to come by. We should not expand the scale of the live poultry trade again. On the contrary, we should continue to vigorously enforce the various preventive and control measures, or else the risk of AI may increase.

As for maintaining the daily quantity of imported chickens at 7 000, we have taken into account the following two factors: (i) the potential threat of AI to Hong Kong; and (ii) the generally stable overall supply of imported and local live chickens in the market in meeting the demand. In fact, there has been no improvement recently in the overnight stocking of chickens in the Cheung Sha Wan Temporary Wholesale Poultry Market. On average, several thousands of live chickens are stocked overnight in the Wholesale

Market every day. This shows that the existing supply of live chickens can fully meet public demand. As such, there is not sufficient justification for increasing the daily imports of live chickens.

- (d) Waterfowl are natural carriers of AI viruses. To prevent HPAI viruses being passed on from waterfowl to chickens, the Government has adopted the policy of segregation of chickens from waterfowl at all levels from import to retail as early as 1998, including the enactment of legislation to prohibit the sale of live waterfowl and other live poultry in the same premises. For public health reason, the relevant Mainland authorities agreed not to export live geese and ducks to Hong Kong from 2004 onwards. At present, there is no local waterfowl farm in the territory. The Government has no intention to re-issue licenses for keeping waterfowl or to resume live waterfowl import.

Live pigeons are not waterfowl. On the supply of pigeons, currently about 2 000 to 3 000 live pigeons are still being imported from the Mainland daily to ensure the supply of adequate live pigeons to retail outlets and restaurants.

We note that the HKU has recently announced the latest progress on the research and development of a chemical compound for treating influenza. We also note that drugs will be manufactured only after successful completion of clinical trials. Until we know about the efficacy of the drugs concerned, we should not make any assessment on the changes in the risk of AI without scientific evidence at the present stage.

We will thoroughly reassess the risk of AI and the effectiveness of various preventive and control measures from time to time and closely monitor the possible mutations of AI viruses with a view to ensuring that our policies are serving their purposes. The Government will reconsider adjusting the prevention and control policy if the situation is reversed.

School Dental Care Service

11. **MR WONG KWOK-HING** (in Chinese): *President, in response to my question regarding dental care services for secondary students at the special meetings of the Finance Committee held earlier to discuss the Estimates of Expenditure 2010-2011, the Director of Health advised that the authorities were planning to study in collaboration with the private sector (for example, the Hong Kong Dental Association) how to extend the School Dental Care Service so that appropriate dental care services and education could be provided for secondary school students. In this connection, will the Government inform this Council:*

- (a) of the details of the co-operation between the Government and the private sector in providing dental care services for secondary students, and when the relevant programme is expected to be implemented;*
- (b) whether the Government will charge students a fee for using such services; if so, how it will set the levels of the fee; and whether the authorities have assessed the financial commitment involved in providing dental care services for secondary students; if so, of the assessment result;*
- (c) whether the authorities had conducted surveys on the oral health of all secondary students in Hong Kong in the past three years, so as to understand their oral health conditions and their needs for dental care services; if so, of the outcome of such surveys; if not, the reasons for that; and*
- (d) whether the authorities will establish a long-term mechanism for extending dental care services to all secondary students, so as to fully resolve the problem of non-availability of such services at the stage of secondary education?*

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

(a), (b) and (d)

The Working Group on Primary Care chaired by the Secretary for Food and Health has put forward a series of strategic proposals to

enhance primary care services, which include enhancing primary dental services and promoting oral health. The Government is working in collaboration with the dental profession, including the Hong Kong Dental Association, to devise feasible programmes to enhance primary dental services and promote oral health. Matters to be discussed include identification of target groups, models of collaboration with the dental profession and other dental service providers (for example, public-private partnership), subsidization model, and so on. The Government and the dental profession will also discuss whether there is a need to enhance students' oral care.

- (c) The Department of Health (DH) conducted Hong Kong's first territory-wide oral health survey in 2001 to understand the oral health status and assess the oral health behaviour and habits of the Hong Kong population. The information collected could facilitate the planning and evaluation of various oral health programmes as well as the formulation of objectives for oral health services. The oral health survey was conducted in accordance with the criteria and recommendations of the World Health Organization. The targets of the survey included members of the key index age groups, that is, children aged five and 12, adults aged 35 to 44 and elders aged 65 and above, with junior secondary students being covered in the group of 12-year-old children. The findings of the 2001 survey showed that the level of tooth decay among the 12-year-old students in Hong Kong was the lowest in the world, but their gum conditions needed more attention. The DH is now planning to conduct another territory-wide oral health survey to continuously monitor the oral health status of our population. There is not yet a definite timetable for the survey.

Nuclear Energy for Power Generation

12. **MS CYD HO** (in Chinese): *President, it has been reported that the CLP Power Hong Kong Limited (CLP) is now negotiating with the China Guangdong Nuclear Power Holding Corporation on the construction of a new nuclear power facility, so as to increase the proportion of electricity generated by nuclear energy, which currently accounts for 20% of local electricity supply. Yet, the incident on 23 May this year of a small increase in radioactivity in the reactor*

cooling water at Unit 2 of the Daya Bay Nuclear Power Plant (DBNPP), which was not uncovered until two weeks after its occurrence, has once again cast doubt on the safety of nuclear electricity and the effectiveness of the incident reporting system. In this connection, will the Government inform this Council:

- (a) whether the authorities have got hold of the incident records, such as radioactive leaks, operational accidents and irregularities, and so on, since the commissioning of the DBNPP; if so, of the details; if not, the reasons for that;*
- (b) whether the Scheme of Control Agreements signed between the authorities and the power companies include provisions to ensure safe disposal of nuclear wastes when the power companies participate in investment and operation of any nuclear power company inside or outside Hong Kong; if so, of the details; if not, whether the authorities will consider incorporating the disposal of nuclear wastes into the Scheme of Control Agreements;*
- (c) whether the authorities had stipulated how the radioactivity in the surrounding area where nuclear wastes were stored and the cancer incidence rate of residents in the vicinity should be monitored when they granted approval to CLP in 2009 to extend the contract for the supply of nuclear electricity from the Daya Bay Nuclear Power Station for another term of 20 years with effect from 7 May 2014; if so, of the details; if not, the reasons for that;*
- (d) whether the SAR Government has, after the Memorandum of Understanding signed with the National Energy Administration in August 2008 to ensure a continuous supply of nuclear electricity and natural gas to Hong Kong, conducted any studies on the projects of West-East Natural Gas Pipeline and the joint venture of constructing natural gas receiving terminals on the Mainland for supplying gas to Hong Kong (including studying the extent to which nuclear electricity can be replaced by electricity from natural gas); if it has, of the details; if not, the reasons for that; and*
- (e) whether the authorities had, in the past five years, assessed the merits and demerits of developing, in collaboration with Guangdong Province, the two means of electricity generation, namely renewable*

energy and nuclear energy; if they had not, of the reasons for that; if they had, of the detailed assessment results?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) Since the commissioning of DBNPP, there has not been any report of nuclear leakage or "nuclear accidents" as defined under the "International Nuclear Event Scale".

(b) and (c)

The handling of nuclear wastes generated by nuclear power plants, including their disposal, is under strict monitoring and supervision of the relevant authorities in accordance with the national safety regulations. In the case of the nuclear plants in the Mainland, their operation is overseen by the National Nuclear Safety Administration. The SAR Government has put in place a Daya Bay Contingency Plan under which the Security Bureau is responsible to direct and co-ordinate the SAR Government's response. In addition, the Hong Kong Observatory (HKO) has set up a Radiation Monitoring Network consisting of 10 radiation monitoring stations to monitor environmental radiation levels. The HKO also runs a comprehensive environmental radiation monitoring programme which includes measuring radioactivity levels of samples taken from various locations and sources in Hong Kong including water and air. Since the commissioning of DBNPP, neither the monitoring stations nor the environmental samples monitored have registered any detectable change that is related to DBNPP.

(d) and (e)

Following the conclusion of the Memorandum of Understanding on Energy Co-operation (MOU) with the National Energy Administration in August 2008, the Government and relevant energy enterprises on both sides have been working together to take forward the planning and development of the gas pipelines and the liquefied natural gas terminal in accordance with the relevant planning,

regulatory and environmental regimes of the respective jurisdictions. It is also the Government's policy since 1997 that no new coal-fired generation units will be allowed for environmental reasons. Accordingly, demand for new electricity generation units or additional electricity demand will have to be met by fuel sources which will have lower pollutant emissions and lower carbon footprint. Given the keen competition regionally and internationally for fuel for power generation, we have to explore all potential sources of clean and low carbon energy for stable, reliable and continuous supply to meet the electricity demand of Hong Kong and to reduce carbon footprint of the city to combat climate change.

In the Framework Agreement on Hong Kong/Guangdong Co-operation, the governments of Guangdong and the Hong Kong Special Administrative Region agreed to jointly study the regional development strategy of cleaner energy and renewable energy, and to encourage their wider use and research.

To encourage the research and development of renewable energy, the SAR Government and the Shenzhen Municipal Government launched the first major technology co-operation project under the "Shenzhen Hong Kong Innovation Circle" to establish a Solar Energy Research and Industrial Platform in collaboration with DuPont. The DuPont Apollo Global Thin Film Photovoltaic Business Headquarters and Research and Development Centre in Hong Kong was opened in March 2009 and its production facilities in Shenzhen are now in operation.

In addition, the SAR Government established the Guangdong-Hong Kong Technology Co-operation Funding Scheme in 2004 to encourage universities, research institutes and companies of both sides to carry out co-operation projects of technology research, including projects on renewable energy. Currently, Guangdong and Hong Kong are jointly funding a number of renewable energy research projects, such as application of high efficiency and cost effective solar cells, and investigation and development of large scale grid connected thin film photovoltaic power stations integrated with buildings.

Scrutiny of Budgets of Hong Kong Monetary Authority

13. **MR ALBERT HO** (in Chinese): *President, while the Hong Kong Monetary Authority (HKMA) is part of the government structure, its funding comes from the Exchange Fund and its annual budgets are not subject to the scrutiny by this Council. Moreover, the Securities and Futures Commission (SFC) is the statutory regulator of the securities and futures market established under the existing legislation and its funding comes from levies on market transactions. Yet, the SFC still submits its budget to the Panel on Financial Affairs of this Council and answers Members' questions before the commencement of each financial year. In this connection, will the executive authorities inform this Council:*

- (a) why the HKMA has not followed the practice of other government departments by submitting its budgets to this Council for scrutiny;*
- (b) whether they have assessed if allowing this Council to vet and approve the budgets of the HKMA will have any adverse impact on the monetary policies; and*
- (c) whether the HKMA will follow the practice of SFC to submit its budget to this Council and answer Members' questions each year?*

FINANCIAL SECRETARY (in Chinese): President, it is an internationally accepted principle that central banking institutions should be able to maintain an appropriate level of autonomy to avoid subjecting their operations to any political influence.

The HKMA budget is scrutinized by the Exchange Fund Advisory Committee (EFAC) and its Governance Sub-Committee with advice provided before it is submitted to the Financial Secretary for approval.

The HKMA is accountable to the Financial Secretary through the EFAC. It is also accountable to the community through the Legislative Council and other channels. It has been an established practice that the Chief Executive of the

HKMA conducts regular briefings on the work of the HKMA for the Panel on Financial Affairs of the Legislative Council.

The existing arrangements are consistent with the principle of maintaining autonomy of central banking institutions while providing for an appropriate degree of accountability. The arrangements are also comparable to those applicable to major central banking institutions around the world. The arrangements are effective and do not need to be adjusted, and we will review the arrangements from time to time.

Regulation of Operation of Funded Institutions by UGC

14. **MR PAUL CHAN** (in Chinese): *President, there have been grave public concerns over the governance and transparency of publicly-funded organizations (including funded institutions) in recent years. Apart from safeguarding academic freedom in and institutional autonomy of funded institutions, the University Grants Committee (UGC) also ensures that the governance and transparency of the decision-making process of such institutions can meet public aspirations, as well as the effective use of public funds. Yet, quite a number of stakeholders of funded institutions have, in recent years, raised queries of different extents on the governance and transparency of the decision-making process of such institutions. In this connection, will the Government inform this Council if it knows:*

- (a) *what requirements the UGC has imposed on the operation of the councils of funded institutions at present; whether the meetings of such councils have to be held in public, and whether the dates, agendas, papers, briefing materials, reports and minutes of their meetings have to be made public; if so, since when each of these funded institutions has started to adopt such arrangements; if not, the reasons for that, and of the criteria based on which funded institutions determine if the meetings of their councils should be held in public and the relevant information should be made public; if there are no such criteria, of the reasons for that;*

- (b) *whether funded institutions had, in the past three years, made public the attendance rates of members of their councils at meetings of the councils and their committees; if they had, of the details; if not, the reasons for that; and*
- (c) *whether the UGC will issue guidelines or implement any regulatory measure to enhance the governance and transparency of the decision-making process of the councils of funded institutions; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President,

(a) and (b)

The eight higher education institutions funded through the UGC are autonomous statutory bodies established pursuant to their respective ordinances. Owing to their different historical background, philosophy and religious beliefs of the institutions, the provisions of the ordinances for the eight UGC-funded institutions are not the same.

Each institution has set up its governance structure in accordance with its own ordinance. Generally speaking, a council is established as the supreme governing body of an institution. Matters concerning the basic operation of the council, such as convention and adjournment of meetings, quorum, conflict of interest, transaction of business, establishment of committees and delegation of powers, are prescribed under the ordinance.

To strengthen communication with the public and enhance transparency, the UGC-funded institutions have indicated that they would make public the decisions and policies made by their councils as appropriate while observing confidentiality. Their practices and criteria for disclosing the dates, agendas, papers, briefing materials, reports/minutes of council meetings are set out at Annex 1. Their

practices for disclosing the attendance records of the meetings of their councils and the committees under them are set out at Annex 2.

- (c) In *Higher Education in Hong Kong — Report of the University Grants Committee* published in 2002, the UGC recommended that the governing bodies of UGC-funded institutions should carry out a review of their governance and management structures to ensure that they are fit for purpose. The report also set out the features of an adequate model of institutional governance, including ensuring the governing body has appropriate lines of accountability and transparency of process. All the UGC-funded institutions have completed the fitness for purpose review of their governance and management structures. Major areas covered by the reviews included the size and composition of the governing bodies, the relevant governing ordinances and applicable codes of practices. The institutions have been following up the recommendations of these reviews, including making legislative amendments.

Annex 1

Practices of UGC-funded institutions
for disclosing the dates, agendas, papers, briefing materials,
reports/minutes of council meetings

<i>Institution</i>	<i>Current practices</i>
City University of Hong Kong (CityU)	It has been the university's practice since 2007 for copies of the minutes and papers of council meetings, except those of a confidential nature, to be kept in the university library for university members' information. The meeting dates and decisions of the council and its committees are available on the university's website for public access.
Hong Kong Baptist University (HKBU)	Since December 2008, the university has made public on its website the decisions made at council meetings, except those of a confidential nature. The dates of council meetings in each academic year are marked in the Academic Calendar distributed to the staff before the beginning of the academic year.

<i>Institution</i>	<i>Current practices</i>
Lingnan University (LU)	Since March 2005, the university has made public the dates of council meetings on its website. To further enhance the transparency of institutional governance, summaries of discussions and decisions made at council meetings have been made available for public scrutiny on the university's website since February 2009.
The Chinese University of Hong Kong (CUHK)	It has been the council's practice since January 2009 to place a summary report of its decisions on the university's website after each meeting, except for matters involving personal privacy, and plans and proposals pending finalization, and any item the immediate release or disclosure of which after the meeting is considered inappropriate by the council.
The Hong Kong Institute of Education (HKIEd)	At present, council meeting dates, agendas, papers and minutes, except those of a confidential nature, are available on the institute's intranet.
The Hong Kong Polytechnic University (PolyU)	It has been the council's practice since January 2006 to upload its major decisions, except those of a confidential nature, onto the university's intranet. The council will consider reviewing the current practice in due course to ensure an appropriate level of transparency of institutional governance. Meeting dates of the council in each academic year are marked in the University Calendar, which is available in printed form and also accessible by the public on the university's website.
The Hong Kong University of Science and Technology (HKUST)	The council publishes through the university's intranet after each meeting the decisions made, except those involving personnel or other sensitive matters that are to be protected. Press releases will continue to be issued for public information.
University of Hong Kong (HKU)	The council publishes on the university's website after each meeting a report summarizing all the decisions made, except those involving personnel matters relating to individuals, and plans and proposals pending finalization. Plans and proposals will eventually be disclosed when they are finalized.

Practices of UGC-funded institutions
for disclosing the attendance records
of meetings of councils and their committees

<i>Institution</i>	<i>Current practices</i>
CityU	It has been the university's practice since 2005-2006 to publish in its annual report the attendance records of the meetings of the council and its committees.
HKBU	The university does not make public the attendance records of the council.
LU	Since March 2005, the university has made public the attendance records of council meetings on the university's website. It will further consider making available the attendance records of the meetings of council committees to the public in due course.
CUHK	The university publishes on its website the attendance records of individual council members at council meetings, and their participation in sub-committees and council duties.
HKIEd	The institute uploads onto its website the attendance records of council members at the meetings of the council and its committees.
PolyU	Attendance records of council meetings have been available on the website of the Council Secretariat and accessible by the public since March 2004. Attendance records of council members at the meetings of council committees are also kept by the Council Secretariat and will be disclosed to the public on request.
HKUST	Since 2003-2004, the overall attendance of council members at council meetings has been published in the university's Annual Report, which is widely distributed and accessible online.
HKU	Since April 2004, attendance records of the university's council members have been posted on the university's website.

Cloud Computing Technologies

15. **DR SAMSON TAM** (in Chinese): *President, with cloud computing services and technologies developing rapidly in recent years, various advanced*

countries across the world are actively involved in the development of cloud computing industries. In this connection, will the Government inform this Council whether:

- (a) it has made reference to the relevant experience of neighbouring regions and conducted studies on the development and application of cloud computing services in Hong Kong; if it has, of the details, if not, the reasons for that;*
- (b) it has assessed the effectiveness of cloud computing services in promoting e-Government services in Hong Kong and enhancing the efficiency of the Government; if it has, whether it will consider taking the lead to promote the application of multi-cloud computing in government departments;*
- (c) the authorities had formulated concrete measures in the past three years to assist enterprises, educational institutions and relevant organizations in conducting researches on and developing cloud computing technologies; if they have, of the details; if not, the reasons for that; and*
- (d) the authorities have considered conducting exchanges and co-operation in cloud computing with the Ministry of Industry and Information Technology, the Chinese Academy of Sciences as well as various provinces and cities on the Mainland; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, regarding the questions raised by Dr Samson TAM, my reply is as follows:

- (a) Cloud computing is a computing model where information technology (IT) resources, services and technologies are shared and delivered as a service over the Internet to the users on demand.

The Office of the Government Chief Information Officer has examined the strategies, practices and initiatives on cloud computing services in the United States, the United Kingdom, China, Singapore,

and so on. It has also studied relevant industry reports and analyses on the claimed benefits and new challenges brought about by cloud computing. All indications are that cloud computing is becoming a major IT trend and major IT suppliers, both international and local, have started to plan or develop the necessary infrastructure facilities for offering such kinds of products and services.

- (b) In assessing the effectiveness of cloud computing services, a number of factors are relevant. These include flexibility in deployment of IT resources, ability to scale up or down the level of resources dynamically depending on demand, upfront costs in setting up the IT infrastructure, unit of procurement and pricing models, availability of service level commitments and associated contractual terms and conditions, information security and privacy of data protection, and interoperability among cloud and non-cloud services. Many of these factors are different from existing practices and require various degrees of adaptation, pilot testing and transition before full adoption. We will take forward a number of projects to confirm the feasibility and provide the implementation method for the transition to the cloud computing model for effective and efficient delivery of e-Government services. The adoption of the cloud computing model will have major implications for the architecture and provision of infrastructure, applications, data and services for e-Government. One of the priority tasks is for the Government Chief Information Officer to raise the awareness of government bureaux and departments and provide advice to help them in their considerations on whether to adopt cloud computing or not.
- (c) The Government is committed to promoting an innovation-driven information and communications technology (ICT) industry as set out in the Digital 21 Strategy. We have been facilitating the development of the local ICT industry and promoting the wider adoption of advanced ICT, including cloud computing services.

To drive forward innovation and technological upgrading in Hong Kong's services industries, the Government has been offering different funding schemes to the industry. Besides the Innovation and Technology Fund (ITF), we also introduced in April 2010 the new Research and Development Cash Rebate Scheme. In the past

three years, the ITF has supported and funded four projects amounting to about \$2 million in association with the research and development of cloud computing.

- (d) At present, there are a number of channels for inter-governmental co-operation and exchanges in IT between Hong Kong and the Mainland. These include the Ministry of Industry and Information Technology, Ministry of Science and Technology, the Pan-Pearl River Delta Directors of Information Industry, as well as provincial and city level counterparts in Guangdong and Shenzhen. As cloud computing services and technologies are still evolving, we shall continue to explore collaboration and exchange opportunities with our Mainland counterparts on matters of mutual interest.

Policies to Alleviate Poverty

16. **MR CHAN KIN-POR** (in Chinese): *President, the Quarterly Report on General Household Survey published by the Government reveals that the number of households with monthly household income below \$4,000 in the first quarter of this year reached 186 000, representing an increase of 6% when compared with that of the same period last year. In this connection, will the Government inform this Council:*

- (a) *whether it has studied why the number of poor households had increased despite the economic recovery when compared with that of last year amidst the financial tsunami, and if this reflects that the Government's policy to alleviate poverty by means of "handing out candies" is ineffective;*
- (b) *whether the Government will reconsider the re-establishment of the Commission on Poverty (CoP) in order to formulate a long-term policy on poverty alleviation to address the problem of poverty in Hong Kong; and*
- (c) *given that people living in poverty cannot support themselves after retirement, whether the Government will reconsider the implementation of a universal retirement protection scheme?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President,

- (a) According to the Census and Statistics Department, the increase in households with monthly income below \$4,000 in the first quarter of 2010 over a year earlier was mainly due to a rise in economically inactive households (that is, all members of which are economically inactive) and elderly households (that is, all members of which are aged 60 or above). This was attributable to the secular trend in Hong Kong towards population ageing and smaller household size, and hence the emergence of more retired elderly households over the past 10 years or so. In fact, as economic recovery gradually took hold, the proportion of economically active households (that is, at least one member of which is economically active) with monthly income below \$4,000 registered a drop of about 3.4% in the first quarter of 2010 as compared to a year earlier. It is worth noting that the above income statistics could not fully reflect the financial situation of these households as their savings and assets have not been taken into account.

The Government has all along been adopting a pragmatic and multi-pronged approach to tackle poverty. We strive to promote economic growth to create more job opportunities. In tandem, we invest heavily in education and child development, and provide training and retraining opportunities to raise the competitiveness and skills of our workforce, to enhance social mobility and reduce inter-generational poverty. Moreover, the Government provides a social safety net and a wide range of free or highly subsidized services in the areas of social welfare, education, health care, and housing, and so on, to ensure that families with financial difficulties can meet their basic needs. In 2010-2011, the Government's recurrent public expenditure in these four policy areas is expected to reach \$139.2 billion, representing 57.2% of the total recurrent public expenditure.

Having regard to changes in the economic situation, the Government has, since 2008, introduced a number of relief measures amounting to about \$110 billion to help people, especially the grassroots, tide over economic adversities and to share with them economic benefits.

These measures, including providing additional payments to recipients of Comprehensive Social Security Assistance (CSSA) and Social Security Allowance (SSA), introducing the short-term food assistance service, paying rent for public housing tenants, and so on, have been effective in general.

- (b) After the former CoP concluded its work in 2007, the Government set up the inter-departmental Task Force on Poverty (TFP), headed by the Secretary for Labour and Welfare, to follow up the CoP's recommendations and co-ordinate efforts across the Government in tackling poverty-related issues. Most of the 53 recommendations made by the CoP have been implemented. TFP will continue with its work and explore initiatives and measures which can assist the disadvantaged groups and people in need.
- (c) Currently, Hong Kong adopts the three-pillar model for retirement protection, *viz* the non-contributory social security system (including the CSSA Scheme and the SSA Scheme which is made up of Old Age Allowance and Disability Allowance), the Mandatory Provident Fund system and voluntary savings. If families (including those of retired persons) have financial difficulties, they can receive financial assistance through the CSSA Scheme to meet their basic needs.

The three-pillar model was adopted in the 1990's after lengthy discussion by different sectors of the community. In view of our ageing population, the Government is currently conducting a study on the sustainability of the three pillars. We will carefully consider the findings of the study.

Public Market Tenancy Agreements

17. **MR WONG SING-CHI** (in Chinese): *President, since the Food and Environmental Hygiene Department (FEHD) took over the management of public markets in 2000 upon its establishment, it had continued to adopt the versions of tenancy agreements used by the two former Provisional Municipal Councils until May 2009, despite their considerable discrepancies. During the period, new tenancy clauses and conditions had been introduced by the FEHD and conveyed*

to tenants through letters for compliance. In this connection, will the Government inform this Council:

- (a) of the year in which the FEHD added new tenancy clauses and conditions to public market tenancy agreements since it took over the management of public markets, as well as the specific clauses and conditions added on each occasion; and*
- (b) whether the tenants, District Councils and the Legislative Council had been widely consulted before such new tenancy clauses and conditions were conveyed to tenants through letters; if so, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, since the FEHD was established in 2000 and took over the management of public markets, it has continued to adopt different versions of tenancy agreements used by the two former Provisional Municipal Councils. There are considerable discrepancies between the contents of the tenancy agreements. Since then, due to various practical needs, the majority of which were to protect public health and food safety as well as consideration about public safety, the FEHD has added new tenancy clauses and conditions. Examples include a series of measures to prevent avian influenza, restriction on the height of stalls for fire safety consideration, introduction of a monthly "cleansing day" after the "atypical pneumonia" in 2003, regulations on the source of seawater of fish stalls for public health concerns. Relevant clauses and conditions have been introduced for compliance by tenants and conveyed to them through letters.

In 2008, the Audit Commission reviewed the management of public markets and recommended that the FEHD should enter into new tenancy agreements with market tenants instead of repeatedly extending their existing tenancies. To follow up with the Audit Commission's recommendations and to facilitate tenants' understanding of the contents of the tenancy agreement, the FEHD has aligned the different versions of public market tenancy agreements in use, and clearly set out the new clauses and conditions mentioned above in a new tenancy agreement template. Last year, the FEHD conducted an extensive consultation exercise regarding the drafting of a new aligned tenancy agreement template. 49 district consultation sessions were organized and views from 77 Market Management Consultative Committees (MMCCs) and 44 market trader

organizations were solicited. Taking into account the views collected, the FEHD has revised the new tenancy agreement template twice to make the contents of the agreement more comprehensible to tenants.

Our reply to the two parts of the question is as follows:

- (a) Since the establishment of the FEHD in 2000, seven new tenancy clauses and conditions have been introduced for compliance by all tenants of public markets and conveyed to them through letters. In addition, some additional tenancy clauses which are applicable only to stalls selling specific food items (that is, fresh or frozen fish, meat and poultry) were also introduced. Details are at Annex.
- (b) In the past, prior to the FEHD's introduction of additional clauses to public market tenancy agreement, the Administration will, depending on the content of the additional clauses, consult the Legislative Council Panel on Food Safety and Environmental Hygiene or the MMCCs if public health, food safety, legislative amendments and market management issues are involved. The MMCCs comprise representatives of tenants from various types of market stalls and local District Council members, and so on.

Annex

Introduction of Additional Clauses/Conditions for Compliance by Public Market Stall Tenants through Letters by the FEHD since its Establishment in 2000

<i>Serial No.</i>	<i>Additional Clauses/Conditions</i>	<i>Date of Introduction</i>	<i>Means of Introduction</i>	<i>Reasons for Introduction</i>
<i>Applicable to all public market stalls</i>				
1	Replacing the previous practice of payment of one month's rent as deposit and payment of rent in advance quarterly with payment of two months' rent as deposit and payment of rent in advance on a monthly basis.	July 2002	Introduced through letters for compliance by tenants in markets where the majority of tenants supported the arrangements and incorporated into the tenancy agreements subsequently signed.	One month's instead of three months' rent is payable in advance to relieve the financial burden on tenants, while the increase of deposit from an amount equivalent to one month's rent to that equivalent to two

<i>Serial No.</i>	<i>Additional Clauses/Conditions</i>	<i>Date of Introduction</i>	<i>Means of Introduction</i>	<i>Reasons for Introduction</i>
				months' rent is to reduce the financial loss of the Government incurred by rent in arrears in the event of termination of tenancy by the tenants.
2	Tenants shall not conduct wholesale or bulk sale activities (without retail sale).	September 2002	Introduced through letters for compliance by all tenants of markets in the New Territories and incorporated into the New Territories tenancy agreements subsequently signed.	<ul style="list-style-type: none"> - Such provision has long been laid down in the tenancy agreements for markets in urban areas, but not in those for markets in the New Territories. - To ensure that the market stalls are mainly used for retail purposes to serve the general public.
3	To cleanse the stalls on the monthly "cleansing day" designated by the Government.	November 2003	Introduced through letters for compliance by all tenants and incorporated into the tenancy agreements subsequently signed.	Introduced in 2003 after the "atypical pneumonia" epidemic with the aim of ensuring the cleanliness of market stalls, thereby reducing the risk of disease transmission.
4	Prohibiting market stall tenants who have their tenancy agreements terminated by the FEHD due to breaches of tenancy conditions or relevant legislation from bidding on any market stalls for a year counting from the termination date.	July 2004	Ditto	To increase the penalty against tenants who have breached the tenancy conditions or the law.

<i>Serial No.</i>	<i>Additional Clauses/Conditions</i>	<i>Date of Introduction</i>	<i>Means of Introduction</i>	<i>Reasons for Introduction</i>
5	Prohibiting suspension of stall business for seven days or more in a month without written consent.	April 2005	Ditto	<ul style="list-style-type: none"> - Any suspension of stall business in markets is undesirable because it will affect the outlook of the market concerned, hamper the market's overall business viability and deprive other potential tenants of the opportunities to rent market stalls. - The measure was adopted in response to the Audit Commission's Report No. 41 published in 2003, which recommended that the FEHD should review the justifications for the maximum number of non-trading days of stall business allowed in the past and standardize the terms in all tenancy agreements regarding the maximum number of non-trading days of stall business allowed in a year.

<i>Serial No.</i>	<i>Additional Clauses/Conditions</i>	<i>Date of Introduction</i>	<i>Means of Introduction</i>	<i>Reasons for Introduction</i>
6	Restricting the height of stalls.	September 2007	Ditto	This restriction was implemented for fire safety consideration to avoid hindrance to the operation of sprinklers by overheight stalls
7	Prohibiting tenants from hanging objects outside their stalls.	September 2008	Ditto	To avoid affecting the outlook of the markets and causing nuisances to other tenants and market users.
<i>Applicable to fish stalls only</i>				
8	When displaying fish for sale in stalls, water-proof trays should be used to carry the fish. Such trays should be connected to the nullah by drain pipes. When displaying live fish for sale, trays with splash-proof guard should be provided.	June 2001	Introduced through letters for compliance by the tenants concerned and incorporated into the tenancy agreements subsequently signed.	To improve the hygiene of the fish stall section in public markets
9	<ul style="list-style-type: none"> - Market stall tenants should retain the documents which show the source of seawater (including the information on the seawater suppliers and the purchasing record of sea salt, and so on) for at least 60 days, such that the documents could be produced immediately upon request by health inspectors for checking or copying; - No water from any flushing system should be used to keep live fish and shell fish intended for human consumption; and 	January 2007	Ditto	To strengthen regulation to prevent improper use of polluted seawater and flushing water for keeping live seafood.

<i>Serial No.</i>	<i>Additional Clauses/Conditions</i>	<i>Date of Introduction</i>	<i>Means of Introduction</i>	<i>Reasons for Introduction</i>
	- During the operation of their business, no water should be abstracted from any area within typhoon shelters or any polluted coastal area for keeping live fish and shell fish intended for human consumption.			
<i>Applicable to poultry stalls only</i>				
10	A series of tenancy conditions for prevention of avian influenza were revised to, among other things, allow government staff or cleansing contractors to cleanse poultry stalls at least once a month.	June 2001	Introduced through letters for compliance by the tenants concerned.	To protect public health and reduce the risk of avian influenza.
11	Chilled or frozen poultry should not be displayed or sold as fresh poultry, otherwise the tenancy will be terminated immediately.	June 2003	Ditto	To step up efforts to combat irregularities of displaying or selling chilled or frozen poultry as fresh poultry.
12	Procedures for handling live poultry found dead in poultry stalls.	September 2003	Ditto	To protect public health and reduce the risk of spreading of avian influenza.
13	All workers should wear aprons and rubber boots. Rubber gloves should be worn when handling and bleeding live poultry and the gloves must be intact and undamaged.	January 2004	Ditto	Ditto
14	Tenants should ensure that live poultry supplied to them come directly from wholesale markets or other sources approved by the Director of Food and Environmental Hygiene (DFEH).	November 2004	Ditto	Ditto

<i>Serial No.</i>	<i>Additional Clauses/Conditions</i>	<i>Date of Introduction</i>	<i>Means of Introduction</i>	<i>Reasons for Introduction</i>
15	To increase the penalty regarding the clause in Item 11 above. If a stall tenant is found displaying or selling chilled or frozen poultry as fresh poultry, his tenancy will be terminated immediately. The DFEH will not exercise his discretion power to suspend the decision on termination of tenancy during an appeal.	November 2005	Ditto	To step up efforts to combat irregularities of displaying or selling chilled or frozen poultry as fresh poultry.
<i>Applicable to fresh meat stalls and/or frozen meat stalls only</i>				
16	Tenants of fresh meat stalls are required to retain all fresh meat purchase invoices for at least 60 days for immediate production for inspection or copying upon request by FEHD officers. The invoices should indicate the purchase date, the item description, the quantity of purchase, and the name and address of suppliers.	January 2001	Introduced through letters for compliance by the tenants concerned and incorporated into the tenancy agreements subsequently signed.	To strengthen regulation to prevent the sale of meat from illegal sources to ensure food safety and hygiene.
17	Imported chilled meat should be stored or displayed in refrigerators at a temperature of 4°C or below.	September 2001	Ditto	To protect public health and raise the hygiene standard of imported chilled meat for sale.
18	Chilled or frozen meat should not be displayed or sold as fresh meat, otherwise the tenancy will be terminated immediately.	June 2003	Ditto	To step up efforts to combat irregularities of displaying or selling chilled or frozen meat as fresh meat.

<i>Serial No.</i>	<i>Additional Clauses/Conditions</i>	<i>Date of Introduction</i>	<i>Means of Introduction</i>	<i>Reasons for Introduction</i>
19	To revise the clause in Item 17 above and impose additional provisions regulating the sale of imported chilled meat, including the requirement to retain purchase invoices for at least 60 days and display the designated notice at conspicuous location at the stall.	June 2005	Ditto	To protect public health and step up efforts to combat irregularities of displaying or selling chilled meat or frozen meat as fresh meat.
20	To revamp and revise the clauses in Items 16 to 19 above in respect of the regulation of fresh meat stalls and frozen meat stalls.	August 2006	Ditto	To make amendments consequential to the enactment of the Food Business (Amendment) Regulation 2006 on 18 August 2006.
21	To provide that pre-packaged frozen (chilled) meat should be kept at an appropriate temperature during delivery.	May 2007	Ditto	To protect public health and raise the hygiene standard of imported chilled meat for sale.

Safety of Repair Works for Lifts

18. **MR IP WAI-MING** (in Chinese): *President, it has been reported that in April this year, a fatal accident occurred while a relief lift worker was working in a lift shaft, and the incident reflects the existence of loopholes and lack of supervision in the system of competent lift workers under the existing Lifts and Escalators (Safety) Ordinance (Cap. 327) (the Ordinance), which caused the accident. In this connection, will the Government inform this Council:*

- (a) *of the number of lift inspections conducted by the Electrical and Mechanical Services Department (EMSD) in the past three years, and what measures the authorities had put in place to ensure that*

registered lift contractors assigned competent workers to undertake inspection and repair works for lifts;

- (b) whether EMSD had, in the past three years, uncovered that unregistered lift contractors had undertaken lift repair works; if it had, whether the authorities had instituted any prosecution; if so, of the number of convictions; and*
- (c) given that the Government has been working on the amendment to the aforesaid legislation, what the latest progress is; whether the authorities have consulted the trade's views; if they have, what the trade's views are; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in the absence of Secretary for Development) (in Chinese): President, the EMSD is working with the Labour Department to investigate the accident involving a lift worker in April this year. To strengthen the regulatory control over lift and escalator safety, we are drafting amendments to the Ordinance. One of the proposed amendments is to introduce a registration system for lift and escalator workers to replace the arrangement of having the qualification of being a competent worker tied with the worker's employment under the existing Ordinance.

My reply to the three parts of the question is given below:

- (a) The EMSD has conducted over 17 000 inspections of lift installation, alteration, maintenance and repair works over the past three years. Among them over 10 200 were inspections of maintenance and repair works (including periodic examinations). During inspections of lift maintenance and repair works, EMSD staff inspect the records of the lift works log-books and check whether the registered lift contractors have according to the statutory requirements assigned authorized lift workers to carry out the examination and repair works. Appropriate disciplinary actions or prosecutions will be initiated against contractors in case of contraventions.
- (b) Under the existing Ordinance, unregistered contractors are not allowed to carry out lift and escalator repair works. The EMSD has

not found any case of repair works undertaken by unregistered contractors over the past three years.

- (c) The three-month public consultation exercise on the proposed legislative amendments ended on 28 February 2010. During the consultation period, we collected views from the trade, including the Lift and Escalator Contractors Association, the Registered Elevator and Escalator Contractors Association, and the Hong Kong General Union of Lift and Escalator Employees. We observe from the responses that there is general support for the amendment proposals to enhance the regulatory control over lift and escalator safety. We have reported the outcome of the public consultation exercise on the proposed amendments to the Legislative Council Panel on Development on 22 June. Our aim is to introduce the bill to the Legislative Council for consideration in 2011.

Non-emergency Ambulance Transfer Service

19. **DR JOSEPH LEE** (in Chinese): *President, the non-emergency ambulance transfer service (NEATS) of the Hospital Authority (HA) mainly provides point-to-point transport service to geriatric day hospital patients, discharged patients and specialist out-patient clinic patients in need of such service. There have been reports that such ambulances often arrived late. In this connection, will the Government inform this Council whether it knows:*

- (a) *the current number of non-emergency ambulances in each of the hospital clusters under the HA, the average age of such vehicles and, among such vehicles, the number of those which have been in use for over 10 years;*
- (b) *the utilization rates of the aforesaid ambulances in the various hospital clusters of the HA in the past three years;*
- (c) *focusing on the aforesaid reports, whether the HA has recorded statistics on late arrivals of the aforesaid ambulances and the relevant complaints; if it has, of the relevant statistics for the past three years; if not, whether the HA will consider recording such*

statistics; and whether the HA has assessed if the reasons for such late arrivals are related to the ageing of the fleet and insufficiency of vehicles; and

- (d) whether the HA has assessed if the existing NEATS is sufficient to meet the demand; if the assessment result is in the negative, whether the HA has planned to increase the number of non-emergency ambulances, replace those which have been in use for over 10 years and recruit additional manpower so as to enhance the efficiency of such service; if it has, of the details of such plans; if not, the reasons for that?*

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

- (a) The Government is providing transport services to patients with mobility-disability mainly through the NEATS and the Easy-Access Transport Service of the HA. The HA's NEATS primarily provides point-to-point transfer service between patients' homes and hospitals or specialist out-patient clinics (SOPC) for geriatric day hospital patients, discharged patients (in-patients or patients who have received treatment at Accident and Emergency Departments) and SOPC patients. The key target clients of NEATS are mobility-handicapped patients who are unable to use transportation such as bus, taxi and Rehabus. Patients have to meet HA's established criteria and guidelines for NEATS in order to receive the services. For example, they should be stretcher-bound patients, patients who need to use oxygen, wheelchair-bound patients (whose residence not accessible by lift), aged patients in need who live alone and have to rely on walking aid, mentally or sensorily (for example, eyesight) impaired patients who are not assisted by friends or relatives on discharge from hospital.

The HA now has a total of 133 non-emergency ambulances for provision of NEATS. The HA has gradually replaced 87 of these ambulances since 2006 and the current average age of the fleet is 4.6 years. The HA will also replace three of the 21 non-emergency ambulances which are over 10 years of age by the end of 2010.

- (b) The numbers of persons served by the HA's NEATS in the past three years are as follows:

	2007-2008	2008-2009	2009-2010
Number of persons served	349 230	370 371	386 612

- (c) In the years from 2007 to 2009, the HA only received three, eight and three complaints respectively about delay and unduly long waiting time for return journey of NEATS. For efficient use of resources, users of NEATS are transferred in groups and patients making similar journeys will be arranged to share the same vehicle as far as possible. Patients' journey time may therefore be longer under such arrangement. Besides, service delay may occur occasionally due to traffic congestion.
- (d) The HA has all along endeavoured to improve the provision of NEATS. In order to meet the increasing demand for the service, the HA has increased the manpower for provision of NEATS by 12% from 315 in 2005 to 353 in 2009.

On the other hand, applications for NEATS from discharged patients or patients to be transferred to other hospital are mostly made on the day for the service and the HA will endeavour to deliver the transfer service on the same day. In the past three months (that is, from March to May), there were only three applications which were not dealt with on the same day and necessitated the arrangement for transfer on the next day. Health care staff will also arrange special transfer service for patients in the light of their conditions. In 2009-2010, a total of some 1 600 trips of special NEATS were provided by different HA clusters. The HA will keep NEATS under review having regard to the service demand.

Oral Examination of Chinese Language Subject

20. **MS AUDREY EU** (in Chinese): *President, it has been reported that while oral examination has been included as a component of the Chinese Language subject in the Hong Kong Certificate of Education Examination (HKCEE) since 2007, there have been disputes over the standard answers to some questions on proper Cantonese pronunciations, for example, the pronunciation of the*

character "霾" in the expression "陰霾", "幢" in "一幢幢", and "迢" in "迢遙千里", and so on. In this connection, will the Government inform this Council of:

- (a) *the standard based on which the Hong Kong Examinations and Assessment Authority (HKEAA) set the standard answers for the oral examination papers of the Chinese Language subject in the HKCEE; whether it had consulted the stakeholders, for example, the Cantonese Culture Promotion Society and the Association for the Promotion of Proper Cantonese Pronunciation, before setting the model answers; and*
- (b) *the list and details of general reference books recognized by the HKEAA, and whether it has any plan to publish the list of reference books for the oral examinations of the Chinese Language subject in next year's HKCEE and the Hong Kong Diploma of Secondary Education Examination in the future; if so, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) The HKCEE is run by the HKEAA. The oral examination for the Chinese Language subject of the HKCEE comprises two parts, namely, "reading aloud" and "oral communication". The part on "reading aloud" mainly assesses candidates' overall performance in the aspects of pronunciation, pace of speech, expression and intonation. The part on "oral communication" mainly assesses candidates' ability in expression, interaction and communication during discussion. The examination questions are developed by the moderation committee set up by the HKEAA. Members of the moderation committee include subject experts, tertiary teachers and experienced secondary teachers who are familiar with the teaching curriculum and the requirements of the examination. In assessing the pronunciations in the "reading aloud" part, instead of just accepting one pronunciation as the standard answer, all pronunciations listed in general reference books are acceptable. The moderation committee makes reference to the pronunciations listed in different general reference books in setting the suggested answers. Therefore, the suggested answers include all pronunciations of that character listed in general reference books.

As general reference books have largely reflected the different views of stakeholders, the whole process of developing the examination questions has to be kept confidential, and the moderation committee has already included subject experts, and so on, no direct consultation will be conducted with stakeholders outside the moderation committee.

- (b) As set out above, the moderation committee makes reference to the pronunciations listed in different general reference books in setting the suggested answers. Since there are a large number of reference books in the market, it is impossible to list out all of them. The HKEAA does not have a list of "recognized" reference books and it is also not appropriate for the HKEAA to "recognize" any general reference books.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

LEGAL PRACTITIONERS (AMENDMENT) BILL 2010

MATRIMONIAL PROCEEDINGS AND PROPERTY (AMENDMENT) BILL 2010

RESIDENTIAL CARE HOMES (PERSONS WITH DISABILITIES) BILL

COMMUNICATIONS AUTHORITY BILL

CLERK (in Cantonese): Legal Practitioners (Amendment) Bill 2010

Matrimonial Proceedings and Property (Amendment)
Bill 2010

Residential Care Homes (Persons with Disabilities) Bill
Communications Authority Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

LEGAL PRACTITIONERS (AMENDMENT) BILL 2010

SECRETARY FOR JUSTICE (in Cantonese): President, I move that the Legal Practitioners (Amendment) Bill 2010 (the Bill) be read a Second time.

The Bill proposes to amend the Legal Practitioners Ordinance (Cap. 159) to introduce limited liability partnership (LLP) for solicitors' practices in Hong Kong.

Since 2004, The Law Society of Hong Kong (Law Society) has called for an early introduction of LLP. In brief, LLP is a model for doing business which confers the protection of limited liability on innocent partners so as to insulate their personal assets from claims arising from the default of the other partners of the firm in the course of business.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

In late 2008, I informed the Legislative Council Panel on Administration of Justice and Legal Services (the Panel) that the Administration proposed to introduce a Bill to enable solicitor firms in Hong Kong to operate in the form of LLP.

The legislative proposals for introducing LLP for solicitors' practices in Hong Kong were discussed at the Panel, and were last discussed on 15 December 2009. The Panel urged for an early introduction of the Bill.

The introduction of LLP is beneficial to Hong Kong for a number of reasons. LLP offers an alternative form of business structure to solicitors since it retains the flexible internal management of a partnership, and yet enables each of the partners to practise with limited liability when they are not personally at fault.

Many jurisdictions have already enacted legislation which allows lawyers to practise as LLPs. We believe the introduction of LLP would attract foreign law firms that wish to operate in the form of LLP to Hong Kong.

For local firms, the ability to form LLP will remove inhibition and encourage sole practitioners and small solicitors' firms to join forces by practising in the form of LLP, thus offering their clients better choices and more specialized services.

Last but not least, many perceive that it is unfair for an innocent partner to be exposed to unlimited liability due to a wrongful act of other partners when he is not responsible for supervising or controlling the activities of the other partners. LLP would prevent such unfairness by insulating the innocent partner's personal assets from claims arising from the default of the other partners of the firm in the course of business.

I will now turn to the effect of the Bill on the liabilities of partners in an LLP. Under the existing law, every partner in a solicitors' firm is liable jointly and severally with other partners for all debts, liabilities and obligations of the firm incurred while he is a partner, including those arising from any wrongful act of other partners of the firm.

The Bill proposes to vary the existing law by providing that a person will not, solely by reason of being a partner, become jointly or severally liable for any partnership obligation if the firm is an LLP and the partnership obligation arises from a default of another partner. "Other people" — hereafter referred to as "other people" — means another partner, or employee, agent or representative of the firm.

The Bill provides that the protection from liability arising from a claim made by a client is available to an innocent partner only if the partnership was an LLP at the time the cause of action for the claim accrued, and the client knew or ought reasonably to have known that the partnership was an LLP at that time. This is to ensure that consumers will be informed of the LLP status of a solicitors' firm so that they can make informed decisions before deciding to engage the services of a firm that is an LLP.

The Bill is not intended to change the common law position with respect to the general principles of negligence. A partner in an LLP may still be held responsible under the common law for vicarious liability arising from the default of an employee, agent or representative who is under the supervision of the partner. Also, a failure to establish a proper system of staff supervision by the partners can be the basis for a claim that all partners of an LLP are personally liable for the default of an employee, agent or representative.

In this connection, Law Society has acknowledged that under the legislative proposals, it would (I quote) "remain possible for a plaintiff to assert, and for a Court to determine, based on the particular facts of a case, that a partner is responsible for liability arising out of the negligence of an employee because of the negligence of that partner, whether by committing the act himself or through the lack of action or supervision or otherwise." (End of quote)

Law Society has further acknowledged that, (and I quote): "if the partners of an LLP fail to establish a proper system of supervision, that failure could be the basis for a claim that all partners of an LLP are negligent, and therefore should be liable. The allocation of liability would be a matter for the Court to decide based on the particular facts of each case and an application of the general principles of negligence." (End of quote)

We recognize that our legislative proposals must strike a proper balance between limiting professional liability for solicitors and safeguarding the interest of their clients as consumers of legal services. To safeguard that interest, the Bill includes measures to enhance the transparency of the operation of LLPs and to preserve partnership assets for meeting claims from clients. In the following, I shall highlight some of these measures.

A solicitors' firm must ensure that a written notice of its particulars is given to Law Society at least seven days before it becomes an LLP, so that the Council of Law Society can fulfil the statutory requirement to keep a list of LLPs, which must contain the name and business address of each LLP and the date of its becoming or ceasing to be an LLP. The Council must make the list available for public inspection, free of charge, at the office of the Council during office hours.

The Bill also provides that an existing solicitors' firm must notify all its existing clients within 30 days after it has become an LLP of the fact and effect of

its becoming an LLP. However, an existing foreign firm only needs to notify its existing clients in Hong Kong if it has already been practising law as a partnership with limited liabilities under the law of another jurisdiction.

The name of an LLP must contain the words "有限責任合夥" if it is in Chinese, and the words "Limited Liability Partnership" (or the abbreviation "LLP") if it is in English. That name must be displayed at every place of business of the partnership and stated in its correspondence and other publications.

The Bill also contains a provision which regulates the distribution of an LLP's property in circumstances where, as a result of the distribution, the partnership would be unable to pay its obligations as they become due, or the value of the remaining partnership property would be less than its obligations. It is important to preserve partnership assets in the case of LLPs because partners of an LLP will no longer be automatically jointly or severally liable for any partnership obligation arising from the default of other members of the firm. Under the Bill, such obligation would only be met by partnership assets and personal assets of the culpable partner. The abovementioned provision concerning the preservation of partnership asset is therefore a very important safeguard for consumer interest.

Deputy President, it is in the public interest to introduce LLP for solicitors' practices in Hong Kong. The enactment of this Bill will make a significant contribution to developing Hong Kong as a legal service hub by encouraging small local firms to join forces to diversify their practice, and by attracting more foreign LLP law firms to establish office in Hong Kong.

I commend the Bill to the Legislative Council.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Legal Practitioners (Amendment) Bill 2010 be read the Second time.

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

**MATRIMONIAL PROCEEDINGS AND PROPERTY (AMENDMENT)
BILL 2010**

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, I move the Second Reading of the Matrimonial Proceedings and Property (Amendment) Bill 2010 (the Bill).

Under the Matrimonial Proceedings and Property Ordinance (Cap. 192) (the Ordinance), when the Court grants a divorce decree or a decree of judicial separation, it can make an order for financial provision in favour of either of the parties to the marriage. If a party has obtained a divorce decree in a jurisdiction outside Hong Kong, that party cannot apply for financial relief to the Hong Kong Courts, as the Hong Kong Courts cannot grant any decree absolute for the case. Under certain circumstances, this provision may cause hardship to the party, especially when no or insufficient financial provisions have been made under the order of foreign courts.

After consulting the opinions of legal professional bodies and relevant parties, the Administration proposes certain amendments to the Ordinance to empower the High Court and the District Court to order financial relief for a former spouse whose marriage has been dissolved or annulled, or who has been legally separated, in judicial or other proceedings outside Hong Kong.

In preparing the Bill, we have made reference to Part III of the English Matrimonial and Family Proceedings Act 1984 (the 1984 Act). The Bill proposes adding a new section IIA to the Ordinance to provide that either of the parties to the marriage may apply for an order for financial relief if the marriage has been dissolved or annulled by a court outside Hong Kong unless that party has remarried. Similar to the 1984 Act, the leave of the Court has to be obtained before a party applies for financial relief. Leave will only be granted if the Court considers that there is substantial ground for the making of the application.

The Bill empowers the Court to make an interim order for financial relief after leave has been granted, if it appears to the Court that the applicant or any child of the family is in immediate need of financial assistance.

The jurisdictional basis for the Court to consider an application for financial relief is similar to its jurisdiction in divorce proceedings in Hong Kong.

Under the Bill, if either of the parties to the marriage is domiciled in Hong Kong or habitually resident in Hong Kong for three years, or has a substantial connection with Hong Kong, on the date of the application for leave or the date when the foreign divorce, annulment or legal separation takes effect, the Court will have the jurisdiction to process the application.

Prior to ordering financial relief, the Court is required to consider whether it is appropriate for a Court in Hong Kong to make the order under all circumstances of the case, particularly in consideration of the specific issues set out in the Bill.

The Bill also contains anti-avoidance provisions to deal with dispositions and transactions that are intended to defeat or prevent applications for financial relief or which reduce such a relief, or in any way interfere with the enforcement of orders for relief.

The Bill proposes transferring to the Chief Judge the rule-making power of the Chief Justice under the Ordinance, and incorporating certain rules of court into the Matrimonial Causes Rules (Cap. 179 sub. leg. A). These rules prescribe the procedures for the application for financial relief under the Bill.

The Administration has consulted the opinions of legal professional bodies and relevant Policy Bureaux on the proposed amendments. They support the proposal to amend the Ordinance. In drafting the Bill, the Administration has taken into account the opinions of legal professional bodies and the Judiciary, particularly in respect of the jurisdictional basis for the Court to process an application for financial relief.

Deputy President, for litigants who are holding foreign divorce decrees and eligible for supplementary financial provision, the Bill can help relieve the hardship they may encounter.

I commend the Bill to the Legislative Council.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Matrimonial Proceedings and Property (Amendment) Bill 2010 be read the Second time.

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

RESIDENTIAL CARE HOMES (PERSONS WITH DISABILITIES) BILL

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, I move the Second Reading of the Residential Care Homes (Persons with Disabilities) Bill (the Bill).

Today, we present the Bill to the Legislative Council as pledged by the Chief Executive in the policy address last October with the aim of regulating residential care homes for persons with disabilities (RCHDs) through a statutory licensing scheme so as to assure service standards.

First of all, I would like to briefly explain the policy objectives and background of the Bill. In respect of our policy, due to the increasing demand for residential care services for persons with disabilities (PWDs), the Government has adopted a three-pronged approach in accordance with the development strategy set out under the Hong Kong Rehabilitation Programme Plan (RPP) to encourage different sectors to provide various types of residential care services for PWDs as follows:

- (i) To regulate RCHDs through a statutory licensing scheme so as to assure the standard of residential care services on the one hand, and to assist the development of different types and operational modes of RCHDs in the market on the other;
- (ii) To support the development of self-financing homes operated by non-governmental organizations (NGOs); and
- (iii) To steadily expand the number of subsidized residential care places for PWDs.

As at end-2009, there were altogether 304 RCHDs, providing 14 331 places in the territory. These included 228 subvented and two Government-operated homes providing 11 098 subsidized places; 20

self-financing homes providing 326 places; and 54 private homes providing 2 907 places.

While private homes have been making contribution to the care for PWDs to cope with part of the demand, the quality of their services, which is not always satisfactory, has been a subject of grave concern to the community including the Legislative Council and groups of PWDs and their parents.

At present, there is no statutory framework to regulate the operation of RCHDs. Although a Code of Practice was issued by the Social Welfare Department (SWD) in 2002 to serve as a guideline on the service standards for all RCHDs, these service standards are not mandatory as the Code does not have any legal basis.

In fact, the SWD has since 2006 implemented a Voluntary Registration Scheme (VRS) for private RCHDs as an interim measure to encourage operators of private RCHDs to enhance service quality. As at April 2010, there were 54 private RCHDs known to the SWD, of which only six have joined the VRS. The response is far from satisfactory.

Given the above reasons and factors, to impose regulation by way of legislation is the only means to ensure that all RCHDs meet the basic service standards. Having consulted the views of the Legislative Council, groups of PWDs and their parents and the rehabilitation sector, the Government has decided to regulate all RCHDs through a statutory licensing scheme.

One of the key features of the proposed licensing scheme is "one licence for one residential care home". In future, many residential care homes for the elderly (RCHEs) with residents suffering from frailty and psycho-geriatric illness will be caught by the future licensing scheme for RCHDs. In addition, given the prevailing policy of continuum of care, the improved health services and the increasing life expectancy of PWDs, some RCHDs will also be caught by the Residential Care Homes (Elderly Persons) Ordinance (RCHE Ordinance).

For purposes of implementing the prevailing policy of continuum of care, pre-empting service disruptions to the residents as well as providing a simple and clear regulatory framework, we propose that any residential care home should be covered by one licence only, issued under either the RCHE Ordinance or the

Residential Care Homes (Persons with Disabilities) Ordinance (RCHD Ordinance) upon enactment. In other words, if a residential care home fits the definition of a home under both the RCHE Ordinance and the future RCHD Ordinance, the home operator must hold a licence under one of those Ordinances but not both.

Although PWDs and the elderly have many similar residential care requirements, they also have distinct needs. To cater for the needs of these two types of service users and to provide better services, a residential care home should provide dedicated services to either the PWDs or the elderly. It is under such a principle that we intend to discourage the operator of a residential care home from diversifying its services to serve both PWDs and the elderly at the same time.

From the operational perspective, it is unreasonable to have a situation whereby some homes will be subject to two licensing schemes both administered by the SWD, resulting in the overlapping of licensing and monitoring efforts.

Given the "one licence for one residential care home" principle outlined above and the operational experience of the statutory licensing scheme for the elderly homes, we are modelling the Bill on the RCHE Ordinance to ensure consistency while giving due consideration to the circumstances specific to RCHDs.

The legislative proposal in the Bill comprises mainly the following. First, the Bill seeks to establish a statutory framework to regulate RCHDs (including application of and exception to the Bill, mechanism for application, issue, renewal, cancellation, suspension and refusal of licences, appeal mechanism, supervision and offences, and so on).

Second, the Bill confers power on the Secretary for Labour and Welfare to make regulations. A Regulation stipulating the requirements on the operation, management and supervision of RCHDs (including staffing and space requirements, health and safety requirements, penalties and fees, and so on) will be made after the passage of the Bill.

Third, the Bill confers power on the Director of Social Welfare to issue a code of practice specifying detailed procedures, guidelines and standards for the

operation, management and other control of RCHDs for compliance by the licensees, such as the requirements for building and fire safety, barrier-free access, general management and health care, and so on.

In the process of formulating the licensing requirements, the Government has all along engaged the rehabilitation sector and other stakeholders including Members of the Legislative Council, the Rehabilitation Advisory Committee, the rehabilitation sector, parent groups, PWD groups and operators of subvented, self-financing and private homes. The Government has also briefed the Panel on Welfare Services of the Legislative Council on the progress of introducing a statutory licensing scheme for RCHDs at several meetings. I thank all sectors for their general support on the proposed implementation of the licensing scheme.

I am also aware of the concerns expressed during the consultation process. On the one hand, some Members of the Legislative Council and the rehabilitation sector are concerned that some private RCHDs may close down upon the implementation of the statutory licensing scheme, resulting in displacement of residents. They are also concerned that some private RCHDs will increase fees to meet the additional costs for meeting the licensing requirements on building and fire safety or to compensate for the loss of income arising from the reduction in the number of beds. On the other hand, some Members of the Legislative Council and parent groups demand that even higher licensing requirements be imposed in terms of space and staffing.

To address these concerns, we will, in implementing the legislative proposal, introduce suitable complementary measures to encourage private RCHDs to upgrade their service standards and help the market develop more service options for PWDs. To this end, we will introduce a pilot Bought Place Scheme (BPS) for private RCHDs prior to the implementation of the statutory licensing scheme. In addition, we will also implement a Financial Assistance Scheme to provide subsidies to private RCHDs to carry out improvement works in compliance with the licensing requirements in building and fire safety. To allow time for individual RCHDs to make suitable arrangements for application for a new licence, there will be a grace period of 18 months after the passage of the Bill.

In particular, I have to stress that the proposed licensing standards under the Bill provide only the minimum requirements to ensure compliance by all

existing RCHDs and that RCHDs with bought places in future will need to meet higher standards. As a starting point, it is a practical approach. On the one hand, it can ensure that RCHDs can comply with an acceptable standard with the least disruption to existing residents, and on the other, service quality can be further upgraded through the pilot BPS.

Deputy President, in the course of drafting the Bill, thorough discussion and wide consultation have been held with the Legislative Council, the rehabilitation sector, groups of PWDs and their parents as well as various stakeholders. The Bill as drafted has given regard to and balanced the opinions of all parties concerned. I hope Members will support the early passage of the Bill as this will mark a steady and practical step towards the implementation of a statutory licensing scheme of RCHDs. On the one hand, it can ensure that RCHDs will operate to a reasonable standard of services, thereby safeguarding the interest of PWD residents. And on the other hand, it will laid the foundation for further development of residential care services for PWDs, thereby resulting in even better service standards and wider choices for PWDs.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Residential Care Homes (Persons with Disabilities) Bill be read the Second time.

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

COMMUNICATIONS AUTHORITY BILL

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I move the Second Reading of the Communications Authority Bill (the Bill).

The Government's objective in proposing the enactment of the Bill is to establish a unified regulatory body covering the whole electronic communications

sector. Rapid advancement in technology is blurring the traditional boundaries between telecommunications and broadcasting, leading to the convergence of the two markets. Many advanced economies have either set up unified regulators for the telecommunications and broadcasting sectors, or merged their separate telecommunications and broadcasting regulators into unified regulatory bodies. At the global forefront of technological application and media convergence, Hong Kong needs to restructure its institutional arrangements of regulation to keep abreast of the times.

In a public consultation document issued some time ago, we proposed adopting a staged and step-by-step approach which starts with merging the functions of the Broadcasting Authority (BA) and the Telecommunications Authority (TA) for the establishment of a unified regulator, namely the Communications Authority (CA). After the CA is established and comes into operation, we will conduct an in-depth review to consolidate and rationalize existing legislation on telecommunications and broadcasting. Before its completion, current legislation which regulates broadcasting and telecommunications services as well as existing arrangements will remain unchanged.

Our proposals to set up the CA mainly include the establishment of an authority which operates in the form of a committee to take over the existing functions of the BA and the TA. The CA will be a statutory body mainly comprising non-officials. The executive arm of the CA will be formed by merging the existing Office of the Telecommunications Authority (OFTA) and the Broadcasting Division of the Television and Entertainment Licensing Authority, and will be named the Office of the Communications Authority (OFCA). This executive arm will be headed by the Director-General of Communications (DG Com), and will operate in the form of a trading fund as currently adopted by the OFTA.

The proposal to establish the CA is generally supported by the sectors concerned and the public. We have also consulted the opinions of the Legislative Council Panel on Information Technology and Broadcasting, and Members also generally support our proposal.

The main provisions of the Bill include the laying down of the functions, powers, membership structure and procedures of the CA, the functions of the DG

Com and the OFCA, and the making of transitional and savings provisions, and so on.

Deputy President, I would like to emphasize two points to Members. First, there are views that the authorities should first conduct a comprehensive review of the Broadcasting Ordinance and the Telecommunications Ordinance, instead of doing it after the establishment of the CA. In fact, transferring the functions of the BA and the TA to the CA involves major structural changes and very complex work, and adjustment also takes time. After the CA is established and comes into operation, it will help us conduct a more comprehensive review of existing legislation which regulates the broadcasting and telecommunications sectors separately, such as cross-media ownership restrictions, the licensing and appeal mechanisms, and so on. This is a more appropriate arrangement.

Second, after listening to Members' views on the number of CA members, we have accepted Members' suggestion that flexibility should be built into the Bill such that the original proposal that the CA be composed of five non-official members, one public officer and the DG Com will be changed to one with "no less than five and no more than ten" non-official members, so that we can appoint a committee comprising not more than 12 members to cope with the work of the CA in future.

Deputy President, the legislative proposals of the Bill, which have been discussed in the Council and society, are supported by the sectors concerned and in line with public expectation. Members also support the establishment of the CA. I implore Members to pass the Bill as soon as possible for the early establishment of the CA.

Deputy President, I so submit. Thank you.

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

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

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Deposit Protection Scheme (Amendment) Bill 2010.

DEPOSIT PROTECTION SCHEME (AMENDMENT) BILL 2010**Resumption of debate on Second Reading which was moved on 21 April 2010**

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Kam-lam, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

MR CHAN KAM-LAM (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Deposit Protection Scheme (Amendment) Bill 2010 (the Bills Committee), I now submit the report of the Bills Committee to this Council and report on a number of key issues relating to its deliberations.

The main purpose of the Deposit Protection Scheme (Amendment) Bill 2010 (the Bill) is to enhance the protection to depositors under the Deposit Protection Scheme (the Scheme), and to improve the Scheme's operating efficiency. The proposals in the Bill include:

- (a) expanding the protection coverage of the Scheme to include secured deposits; and
- (b) raising the limit on the total amount of compensation for each depositor under the Scheme from HK\$100,000 to HK\$500,000.

The Bills Committee has held three meetings with the Administration to scrutinize the Bill. The Bills Committee generally support the various proposed amendments in the Bill.

The Bills Committee has examined the types of deposit that are not currently but will be brought under the protection of the Scheme under the Bill. The Administration advised that under the proposed new definition of "deposit",

so long as the security to which a deposit is subject is referable to the provision of any banking or financial services, the deposit concerned will be brought under the protection of the Scheme under the Bill. For example:

- (a) a deposit secured in a bank for obtaining the services of securities trading provided by the bank; and
- (b) a deposit secured for a letter of credit issued by a bank.

Clause 4 of the Bill introduces two new provisions to empower the Hong Kong Deposit Protection Board (the Board) to determine under specified circumstances the amount of accrued interest and the value of annuities and future and contingent liabilities of depositors by making reasonable and appropriate estimates. According to the authorities, the proposed clause seeks to inject flexibility into the compensation determination process, thereby shortening the time required for making compensation to depositors. The Bills Committee has also expressed concern about whether there is any mechanism for depositors to appeal against the amount of compensation as decided by the Board.

The Administration has advised that according to section 41(1) of the Deposit Protection Scheme Ordinance (the Ordinance), a person who is aggrieved by a decision of the Board under section 32(5)(b) of the Ordinance may apply to the Deposit Protection Appeals Tribunal (the Tribunal) for a review of the decision. According to the abovementioned provision, the amount of compensation to which a depositor is entitled as determined by the Board by applying the two proposed provisions may be subject to the review of the Tribunal. This is consistent with the policy intent of the Administration.

Clause 6 introduces proposed section 36(2) to empower the Board to make interim payments of different amounts to different depositors, or different classes of depositors, as the Board considers appropriate. The Bills Committee has also expressed concern that the Bill has not specified any criteria for the Board's exercise of the discretion under the proposed section.

The Administration has clarified that under the existing section 36 of the Ordinance, it is intended that the Board can make different amounts of interim payment to different depositors. The purpose of introducing the proposed section 36(2) is to reflect this policy intent more clearly. However, in order to

address members' concern, the Administration has agreed to move a Committee Stage amendment (CSA) to highlight that the financial position of the depositor is one of the possible factors to be taken into consideration by the Board in determining the amount of interim payment to be made to a depositor.

The temporary full deposit guarantee implemented in October 2008 would expire on 1 January 2011. According to the commencement clause of the Bill, the enhanced Scheme will come into operation on 1 January 2011. The Bills Committee has expressed concern whether and how the public would be informed of the changes to the protection status of their deposits starting from 1 January 2011.

The Administration has assured the Bills Committee that the Hong Kong Monetary Authority and the Board will take appropriate measures to ensure that the public and clients of all authorized institutions are made aware of the impending changes to the deposit protection arrangement in Hong Kong, including the fact that deposits at restricted licence banks and deposit-taking companies will no longer be covered by any form of deposit protection starting from 1 January 2011 (that is, reverting to the situation before the introduction of the full deposit guarantee), so as to enable the relevant clients to make timely preparations for the transition.

The Bills Committee agrees to the CSAs to be moved by the Administration and supports the resumption of the Second Reading debate on the Bill.

Deputy President, next, I will speak on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to present our views. After the implementation of the Scheme, banking stability has been effectively enhanced through the provision of protection to depositors. The introduction of the full deposit guarantee at the end of 2008 effectively enhanced confidence among local and foreign investors and depositors in the deposits placed with banks, thereby mitigating the impact of the global financial turmoil on our financial markets. Given that the full deposit guarantee will come to an end at the end of this year, a revision of the Scheme by the Board would not only minimize the impact of the lifting of the full deposit guarantee on the public, but also pre-empt a possible capital drain that may deal a blow to the market.

The amendments proposed in this Bill are actually adjustments made to the Scheme in the light of the findings of the two-phased public consultation conducted on completion of the Board's review of the Scheme. The proposed enhancements, which have received wide recognition from the public and broad support from the industry concerned, mainly include providing enhanced protection to depositors under the Scheme and improving the operating efficiency of the Scheme.

In order to strengthen the Scheme, the Bill amends the definition of "deposit" to the effect that the secured deposits will also be protected, and raises the protection limit from HK\$100,000 to HK\$500,000. We appreciate public aspiration for a higher protection limit, but after considering different factors, the DAB considers HK\$500,000 a reasonable standard. Under this threshold, about 90% of depositors would be fully covered, reaching the higher end of international standards. While this is cost-effective, it would not cause moral hazard.

In order to prevent banks from transferring the additional costs to depositors, the Board has even reduced the annual contribution rates of Scheme members.

Furthermore, this Amendment Bill has given the Board more power to, for instance, make reasonable estimates in determining compensation; make interim payments of different amounts to different classes of depositors; allow the work of the Board to be dealt with through electronic means, and effectively improve its efficiency in making compensation payment. Also, the Board is empowered to amend and make additional rules on disclosure, with a view to enhancing the transparency of the protection coverage of the Scheme.

Given that the economy is still highly volatile and the financial markets are ever-changing, different financial products have emerged. The DAB hopes that in future, the Board will conduct timely reviews of the Scheme and adjust its protection limit and coverage when appropriate, so as to ensure that the Scheme to provide more effective protection for the deposits of members of the public.

Deputy President, the DAB supports this Bill. I so submit.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. This debate will come to a close after the Secretary has replied.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, first of all, I would like to express my sincere gratitude to Mr CHAN Kam-lam, Chairman of the Bills Committee on the Deposit Protection Scheme (Amendment) Bill 2010 (the Bills Committee), and members of the Bills Committee for their unreserved co-operation in the scrutiny of the Deposit Protection Scheme (Amendment) Bill 2010 (the Bill) and offer of valuable opinions.

The purpose of the Bill is to provide for the implementation of the enhancement proposals concluded from a review of the Deposit Protection Scheme (the Scheme) conducted by the Hong Kong Deposit Protection Board (the Board) in 2009, thereby enhancing the Scheme as a part of the financial infrastructure of Hong Kong and providing better deposit protection.

In the light of the relevant developments in the international and local financial markets and the experience gained from operating the Scheme, the Board completed a review of the Scheme and conducted public consultations on the findings thereof in two phases in 2009. The findings of the review showed that the existing design features of the Scheme in Hong Kong are generally compliant with international best practices. However, it also identified a number of enhancements to the Scheme to address the latest market developments, in particular, meeting the heightened public expectation for better deposit protection. The enhancement proposals received broad support during public consultation.

Proposals concluded in the review seek to provide better protection for depositors, which include raising the protection limit of the Scheme from HK\$100,000 to HK\$500,000 and including secured deposits under the Scheme. Raising the protection limit of the Scheme to HK\$500,000 will bring the level of

deposit protection in Hong Kong closer to those in other major markets in absolute terms, and also fully cover about 90% of the depositors. Insofar as the percentage of fully-covered depositors is concerned, it is also on a par with the higher end of international standards. Expanding the protection coverage to include secured deposits, on the other hand, will help remove certain uncertainties surrounding the protection status of a deposit, for instance, a deposit being taken as a security by banks, or subject to any forms of encumbrance, for supporting the other banking and financial services provided by banks. These cases are most commonly found under an integrated account. The improved clarity of the coverage of the Scheme brought about by this enhancement is expected to help foster stronger public confidence in the Scheme.

At the same time, we also suggest to introduce measures to reduce the cost of banks, so as to prevent them from passing the additional cost to depositors. Raising the protection limit of the Scheme and protecting secured deposits will increase the amount of deposits in the banking industry protected by the Scheme. The aggregate contribution payable by banks in a certain year, which made up the Scheme Fund, is set as a percentage of the amount of protected deposits held with the banks. Hence, an increase in the amount of protected deposits will in turn raise the total amount of annual contributions payable by banks. We will introduce measures to cut the cost, which mainly include reducing the annual contribution rates of banks by 65%, thereby keeping the annual contribution payable by the banking industry unchanged at the current level.

Furthermore, following the revisions made to the level and scope of the Scheme's deposit protection, consequential amendments to the provisions on priority claims of depositors in the Companies Ordinance will have to be made to ensure that the Board will continue to subrogate into the priority claims of depositors to fully recover the compensation payable to depositors.

Apart from these proposals, the Bill will also make certain amendments to the Deposit Protection Scheme Ordinance (the Ordinance) to improve the Board's efficiency in determining and making compensation to depositors at the time of payment, and to provide for the making of additional rules by the Board on the representation, disclosure and acknowledgement requirements relating to deposits and other financial products. Through these enhancement measures, depositors will receive compensation payment more quickly and have a better idea of the protection status of their deposits.

In the light of the views expressed by the Bills Committee and the Legal Adviser of the Legislative Council during the scrutiny of the Bill, I will also move a number of technical CSAs at the Committee stage later.

Deputy President, I implore Members to support and pass this Bill and the CSAs to be moved by me at the Committee stage later to enable local depositors to benefit from an enhanced deposit protection scheme after the lifting of the full deposit guarantee at the end of this year. In order to facilitate a smooth transition to the enhanced Scheme, the Board will maintain close liaison with the industry to ensure that the banks will prepare themselves as early as practicable for the implementation of the relevant enhancement measures. The Board will also launch its promotion campaign after the passage of the Bill, highlighting the features of the enhanced Scheme so that the public can better grasp the details of the new Scheme.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Deposit Protection Scheme (Amendment) Bill 2010 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): The Deposit Protection Scheme (Amendment) Bill 2010.

Council went into Committee.

Committee Stage

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

DEPOSIT PROTECTION SCHEME (AMENDMENT) BILL 2010

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Deposit Protection Scheme (Amendment) Bill 2010.

CLERK (in Cantonese): Clauses 1, 2, 3, 5, 8 to 12 and 14.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 2, 3, 5, 8 to 12 and 14 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 4, 6, 7 and 13.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members. I am now going to give a brief introduction of the various amendments.

Clause 6 of the Deposit Protection Scheme (Amendment) Bill 2010 (the Bill) seeks to amend section 36 of the Deposit Protection Scheme Ordinance (the Ordinance) to empower the Hong Kong Deposit Protection Board (the Board) to make interim payments of different amounts to different depositors, or different classes of depositors, with a view to increasing the efficiency in making compensation. Our amendment seeks to respond to the request of the Bills Committee on the Deposit Protection Scheme (Amendment) Bill 2010 (the Bill Committee) to highlight the financial position of the depositor as one of the possible factors to be taken into consideration by the Board when determining the amount of interim payment to be made to a depositor according to section 36 of the Ordinance.

The proposed new clauses 27(4)(c) and 27(4)(d) of the Bill allow the Board to, under specified circumstances, make reasonable estimates when exercising the right to determine compensation. Clause 7 seeks to amend section 37 of the Ordinance to allow the Board to recover from depositors the amount of excessive payment made according to such estimates.

Our amendment seeks to address the concern of the Bills Committee about whether the use of the term "the entitled amount" will give rise to possible confusion relating to the interpretation of similar references in the Ordinance. In order to avoid any possible confusion, the term "the entitled amount" will be changed to "the reference amount".

Furthermore, we have moved technical amendments to clauses 4(4), 4(5) and 13(3) to the effect that the expression "或有負債" in the Chinese text of the Ordinance will be changed to "或有債務", so as to achieve consistency with the use of the term "債務" (liabilities) in the Ordinance.

Deputy Chairman, all the amendments have been submitted to the Bills Committee for scrutiny and there was no opposition. I hope Members will support the relevant amendments.

Thank you.

Proposed amendments

Clause 4 (see Annex I)

Clause 6 (see Annex I)

Clause 7 (see Annex I)

Clause 13 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 4, 6, 7 and 13 as amended.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 4, 6, 7 and 13 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy Chairman, I move the amendment to the clause read out just now, as set out in the paper circularized to Members. I am now going to give a brief introduction of the amendment.

Schedule 2 of the Deposit Protection Scheme (Amendment) Bill 2010 (the Bill) amends section 265 of the Companies Ordinance to link the limit on priority claims of depositors in a bank liquidation and the definition of deposit to the limit on amount of compensation and the relevant definition as specified in the Deposit Protection Scheme Ordinance.

Our amendment seeks to respond to the suggestions made by the Legal Adviser of the Legislative Council to further clarify that the new arrangement applies in the case of a winding up where the relevant date has occurred before the commencement of the Bill. However, compensation under the Deposit

Protection Scheme is only triggered on a day on or after the commencement date of the Bill.

Deputy Chairman, this amendment has been submitted to Bills Committee on the Deposit Protection Scheme (Amendment) Bill 2010 for scrutiny and there was no opposition. I hope Members will support it.

Thank you.

Proposed amendment

Schedule (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule as amended.

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

(Members raised hands)

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

(No hands raised)

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

DEPUTY CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

DEPUTY PRESIDENT (in Cantonese): Bill: Third Reading.

DEPOSIT PROTECTION SCHEME (AMENDMENT) BILL 2010

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

Deposit Protection Scheme (Amendment) Bill 2010

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Deposit Protection Scheme (Amendment) Bill 2010 be read the Third time and do pass.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Deposit Protection Scheme (Amendment) Bill 2010.

MOTIONS

DEPUTY PRESIDENT (in Cantonese): Motion. Proposed resolution under the Employees' Compensation Ordinance.

I now call upon the Secretary for Labour and Welfare to speak and move his motion.

PROPOSED RESOLUTION UNDER THE EMPLOYEES' COMPENSATION ORDINANCE

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed.

The purpose of this resolution is to increase the amounts of five compensation items payable under the Employees' Compensation Ordinance (ECO). The Ordinance provides for the payment of compensation to employees and family members of the deceased employees for occupational diseases, injuries or deaths caused by accidents arising out of and in the course of employment. The Government reviews the levels of compensation every two years and adjusts the amounts by reference to the changes in wage and price levels in the intervening period.

The levels of compensation under the ECO have been adjusted upwards in line with the positive changes of relevant indicators pursuant to the reviews conducted up to 1998. After 1998, as a result of deflation and downward adjustment of wages experienced in Hong Kong, the four review exercises covering 1999 to 2006 witnessed a negative growth in most of the indicators (including the Nominal Wage Index (NWI) and Consumer Price Index (CPI) (A)). Notwithstanding that, we have all along kept the amounts of various compensation items unchanged at their existing levels in order not to affect the rights and interests of the employees. Nevertheless, the negative growth of the relevant indicators since the last adjustment of compensation levels in 1998 were to be taken into account in future reviews. In other words, the levels of compensation under the Ordinance would not be revised upwards until the cumulative rates of decrease in price or wage movements have been offset by future increases.

Following the established mechanism, we have completed a new round of review. Review findings indicated a cumulative increase in the NWI but a cumulative decrease in the CPI (A) over the years since 1998 up to 2008.

In line with the review findings, we propose to increase the amounts of five compensation items by 2.34%. The proposed revisions would include increasing the ceiling of monthly earnings from \$21,000 to \$21,500. This figure

is the basis for calculating the maximum amounts of compensation for permanent total incapacity and for death under the Ordinance. We also propose to increase the minimum levels of compensation for death from \$303,000 to \$310,000, and for permanent total incapacity from \$344,000 to \$352,000. In addition, we propose that the maximum amount of compensation for employees requiring attention by another person be revised upwards from \$412,000 to \$422,000. As for the surcharge on late payment of compensation, we propose to increase the minimum amount of surcharge imposed upon expiry of the payment period from \$490 to \$500 and the minimum of a further surcharge imposed three months after the expiry of the payment period from \$970 to \$1,000. To allow time for the employers and the insurance industry to prepare for the implementation arrangements, we propose that the revised levels of compensation should take effect from 1 August 2010.

For other compensation items that should be revised downwards in accordance with the review findings, we again recommend to maintain the existing levels of compensation, in order not to adversely impact on the livelihood of the affected employees.

The Labour Advisory Board has unanimously endorsed the above proposals. I hope that Members will support and pass the motion so that the employees can benefit as soon as possible.

I so submit. Thank you, Deputy President.

**The Secretary for Labour and Welfare moved the following motion:
(Translation)**

"Resolved that, with effect from 1 August 2010, the Employees' Compensation Ordinance (Cap. 282) be amended in the Sixth Schedule –

- (a) in the entry relating to section 6(1)(a), by repealing "21,000" and substituting "21,500";
- (b) in the entry relating to section 6(1)(b), by repealing "21,000" and substituting "21,500";

- (c) in the entry relating to section 6(1)(c), by repealing "21,000" and substituting "21,500";
- (d) in the entry relating to section 6(2), by repealing "303,000" and substituting "310,000";
- (e) in the entry relating to section 6C(8)(a), by repealing "490" and substituting "500";
- (f) in the entry relating to section 6C(8)(b), by repealing "970" and substituting "1,000";
- (g) in the entry relating to section 6D(3)(a), by repealing "490" and substituting "500";
- (h) in the entry relating to section 6D(3)(b), by repealing "970" and substituting "1,000";
- (i) in the entry relating to section 6E(9)(a), by repealing "490" and substituting "500";
- (j) in the entry relating to section 6E(9)(b), by repealing "970" and substituting "1,000";
- (k) in the entry relating to section 7(1)(a), by repealing "21,000" and substituting "21,500";
- (l) in the entry relating to section 7(1)(b), by repealing "21,000" and substituting "21,500";
- (m) in the entry relating to section 7(1)(c), by repealing "21,000" and substituting "21,500";
- (n) in the entry relating to section 7(2), by repealing "344,000" and substituting "352,000";
- (o) in the entry relating to section 8(1)(a), by repealing "412,000" and substituting "422,000";
- (p) in the entry relating to section 8(1)(b), by repealing "412,000" and substituting "422,000";

- (q) in the entry relating to section 16A(10)(a), by repealing "490" and substituting "500";
- (r) in the entry relating to section 16A(10)(b), by repealing "970" and substituting "1,000".

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

MR IP WAI-MING (in Cantonese): Deputy President, the Secretary for Labour and Welfare has moved amendments to the Employees' Compensation Ordinance (ECO) today because the amounts of compensation under the ECO are subject to review every two years, making reference to the NWI which reflects the changes in wages, as well as the CPI (A) which reflects the changes in price levels. Since the NWI had risen 2.34% when the review was carried out this time, some compensation items can be increased.

We in The Hong Kong Federation of Trade Unions (FTU) support the proposal in today's motion to increase the amounts of compensation because this amendment really gives wage earners more compensation when accidents occur at work. However, we would like to point out at the same time that apart from such regular reviews conducted on wages and price levels, Deputy President, we hope that the Government will carry out a comprehensive review having regard to the ECO, to study in detail the provisions and the amounts to see if they are reasonable, and whether they are compatible with the present occupational environment and condition.

Deputy President, the ECO provides compensation to employees and family members of the deceased employees for occupational diseases, injuries or deaths caused by accidents arising out of and in the course of employment. In 2009, there were over 39 000 cases of occupational death, of which 165 cases involved death arising out of work. Actually, we know that industrial accidents can be major or minor at times. For some employees, one industrial accident may have changed the rest of their lives, or they have to be taken care of by

others on a permanent basis, losing their capacity to work. However, when calculating these compensation for death and for permanent total incapacity arising out of work, the ECO used to set the ceiling of monthly earnings at \$21,000. This amendment today is just raising that to \$21,500, that is, an increase of \$500. Due to this ceiling, Deputy President, regardless of how much a salary an employee is making, what senior post he may hold or how good the prospect is before he sustains injury or dies, once an accident occurs, the amount of \$21,500 will be used for calculation. Of course, the Secretary may say in his reply later on that consideration can be given to the so-called compensation for negligence. However, what we are discussing now is that under this statutory compensation, why does the Government still have to impose this restriction on monthly earnings, instead of calculating compensation on the basis of an employee's actual income? We consider this unfair to the employees.

Deputy President, we are now talking about compensation for a person who loses his life or the rest of his life because of work. Therefore, we have to ask: Why is the calculation of compensation not based on his post and salary at the time of injury? Why should there be this restriction? So, upon the passage of this amendment today, could the Government move one more step forward and again examine whether this restriction on monthly earnings can be scrapped?

Deputy President, just as I said last month in moving the motion on "Reviewing occupational safety and health and employees' compensation system", the existing ECO was enacted in 1953 and has been in operation for over half a century, but during this period, the overall economic and labour conditions of Hong Kong have totally changed, and some common industrial accidents or other diseases are not listed for compensation purposes, depriving employees of protection. For example, fatigue resulting from employment is not a statutory occupational disease at the moment, and employees are unable to get compensation. However, more often than not, bodily harm so sustained is permanent, bringing lifelong effect to the employees. Another example is the so-called "post-traumatic stress syndrome" cases stemming from employment received by my colleague Dr PAN Pey-chyou earlier. It is not included in the present legislation and covered the scope of compensation either. Furthermore, we notice that there are many examples in overseas countries where rehabilitation is covered by insurance for work injury, but we are lagging far behind other overseas regions. The rehabilitation of workers after injuries is still not

incorporated into the scope of compensation. Therefore, we hope that the Government can in future conduct more reviews in this regard and provide us with a timetable.

In fact, Deputy President, it may be a nightmare to the workers in being injured in the course of work because sometimes, employees may have to seek assistance constantly to claim compensation as a result of this, or they may even have to initiate proceedings, during which they have to face great pain, including bodily pain, and worry about their livelihood as they will not be making any income. The psychological pressure from lawsuits, plus the pressure of not knowing what the prospect is becomes a torture for these wage earners. Yet, under the relevant Ordinance, the situation stands like this and the Government has all along refused to conduct a comprehensive review.

Therefore, we wish to draw the attention of Secretary Matthew CHEUNG to the fact that although the FTU supports the increase in amounts today, we all the more hope that the Government will carry out a comprehensive review and make amendments. The Secretary has always said that he cares for the labour and his heart is with the wage earner. I hope he will understand their hardship and worries, seriously consider reviewing the ECO, and provide us with a timetable. Then, for the well being of our workers, I believe not only will the FTU be prepared to co-operate with him, but the whole labour sector will also be prepared to do the same.

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

MR LEE CHEUK-YAN (in Cantonese): Deputy President, I will not stay for the voting which will take place later because to me, today's motion is much too nonsensical. There has been so much discussion on the issue of 2.34%, but what are they talking about? We have heard the Secretary say earlier how wages and inflation had changed during the decade from 1998 to 2008, could this society be static? Should there not be better protection for the workers? Discussions have been going on for a decade, and we only come up with a 2.34% increase, what in fact is this? Is it largesse?

Actually, we have always thought that if the Government is really serious in protecting the workers, it should conduct an overall review to come up with

improvements. Under today's proposal, one item to be slightly increased is the ceiling of the monthly earnings used for calculating the amount of compensation. In the past, employees might be having monthly salaries of as high as \$30,000, \$40,000 or \$50,000, but this ECO has capped the ceiling of monthly earnings at \$21,000 for the purpose of calculating compensation. This ceiling is now raised to \$21,500. Let us see how much compensation an engineer with a monthly salary of \$40,000 or \$50,000 will get if he dies on a works site while at work. Even if his monthly salary is \$40,000, the ceiling of \$21,000 will be used for calculating the amount of compensation previously, but now, the calculation will be based on \$21,500. Does he not have to pay mortgage? Does he not have to support his children? An engineer is also a worker. His living expenses used to be in the region of \$40,000 to \$50,000 or \$60,000 to \$70,000 because he has to pay mortgage, but if he dies while at work, the ceiling for calculation of compensation remains at \$21,000, now at \$21,500. What afterall is this?

All these years in our discussion with the Government, we have been demanding scrapping of the \$21,000 ceiling. Compensation should be calculated in accordance with the workers' wages, and this is the entire concept of insurance. Labour compensation can in no way offer protection to high-salaried employees, whose life will collapse when they meet with unexpected circumstances. Not every victim will get negligence compensation. If the accident is caused by negligence on the part of the employer, the employee will then be entitled to negligence compensation. Labour compensation is a statutory compensation, but the level of compensation is not high. At present, the amount is wages for three years, five years or seven years, that is, if an employee dies while at work, the amount of compensation will be his salary for three years, five years or seven years, depending on the age of the deceased. If an employee sustains injury at work, the compensation will be his salary for four years, six years or eight years, depending on the age of the injured. To an employee, even if he is earning \$40,000 or \$50,000 a month, only \$21,000 will be used as the ceiling of monthly earnings for calculation of compensation. Is that meaningful? This is the first point.

The second point is even more absurd. I believe the Secretary must have not thought about this. The other figure is \$310,000. Originally, it was \$303,000, but it is now increased to \$310,000. What figure is this? This is the minimum level of compensation for death. Why is there a minimum level of

compensation? To put it simply, some workers only earn very low wages, so if someone with a monthly wage of only \$2,000 dies at work, even if this amount is multiplied by three years, five years or seven years, the amount of compensation is still very low, thus the Government has set the minimum level of compensation at \$310,000. However, I find it a bit odd. I believe the Secretary is also aware that the minimum wage legislation will be implemented soon, with the debate scheduled on the 14th and is sure to be passed, only that it is not known when the level will be set. The Secretary has stated that it will be implemented next year. I have done some calculations. For \$310,000, if the amount of compensation comes from wages in seven years, the monthly wage will be \$3,690; if the amount equals to wages in five years, the monthly wage is \$5,000; and if the amount equals to wages in three years, the monthly wage is \$8,600.

What point am I trying to make? Deputy President, you may not understand what I have been saying, I really need to do some explaining. This minimum level of compensation is meant to protect some workers with low income. Once the minimum wage comes into effect, the monthly income of an average low-income earner may be \$6,000, but the current protection is \$3,690, thus rendering it meaningless. What I want to say is, this protection of \$310,000 only exists in name. Nonetheless, the Government may not have considered that upon the implementation of the minimum wage, this \$310,000 will only exist in name because no one will have a wage below \$3,690. I have explained just now that if the amount of compensation is calculated on wages in seven years, the monthly income is \$3,690; and if it is calculated on wages in five years, the monthly income is \$5,000. Since no one will be making a wage of \$5,000 or \$3,690, this \$310,000 exists in name only.

The Secretary may say there are still part-time workers. Some part-time workers may be making \$1,000 to \$2,000 monthly, but what meaning does this amount of \$310,000 have as stipulated in law? To full-time workers, once the minimum wage is implemented, their wages will not be less than \$3,690 or \$5,000, in this case, what purpose can this \$310,000 serve? However, the Government is just haphazardly increasing it by 2.34% today, without giving the slightest consideration to our constant demand for a comprehensive review of the legislation.

A lot of provisions in the Ordinance have failed to catch up with the times. As regards the formulae I just mentioned — compensation for death arising out of

work is wages for three years, five years or seven years, while compensation for permanent disability is wages for four years, six years or eight years — they have remained the same for several decades, but the Government has all along refrained from giving them a thought. It just considers some trivial matters and comes up with a proposal for a 2.34% increase after discussion as a gesture. This greatly disappoints me. It does not make any sense today to waste our time discussing the 2.34%. Frankly, there is nothing to lose without it. There are so many unjust provisions in the entire law on compensation to be revised, an adjustment of 2.34% is largely meaningless. Thus, I will not stay here for the voting later on as I "couldn't care less".

MS LI FUNG-YING (in Cantonese): Deputy President, regarding this amendment to the ECO, just as colleagues said earlier, the purpose is purely to make minor adjustments to the amount of compensation for several items in response to changes in the NWI and CPI (A).

Deputy President, I wish to emphasize here that after the adjustments to the amount of compensation for employees, the ceiling of monthly earnings for calculating compensation for death and permanent total incapacity is still \$21,500, which is \$1,000 less than the wage ceiling of \$22,500 for calculating severance pay or long service payment under the present Employment Ordinance. I find this odd. With the protection of employees' interests being the same purpose, and with both Ordinances coming under the ambit of the Secretary's Policy Bureau, why are there different standards for calculation? Not only is this unreasonable, it can easily cause confusion. In my opinion, the first step is definitely to adopt a unified standard for the two Ordinances, using \$22,500 as the basis. Of course, there is still room for improvement regarding the present monthly income ceiling for the calculation of severance pay and long service payment.

Deputy President, the ECO was enacted in the 1950s. We all know that the manufacturing industry dominated society then. However, nowadays, we always say that the economy has transformed and is developing towards a knowledge-based economy. Given that the whole economic structure of society has changed, I think it is necessary to review the entire ECO comprehensively to cope with the current need of social development. For example, Schedule 1 of

the existing ECO does not include mental impairment. Some colleagues pointed out that this arrangement is most reasonable. We consider that the authorities should include mental impairment in Schedule 1 as soon as possible. Moreover, there is also enormous room for improvement regarding the occupational diseases contained in Schedule 2 because at the moment, many employees in the retail services, security and catering sectors are required to stand for a long time. Furthermore, we have mentioned that aircraft loading and unloading workers are also required to work for long hours in a confined space. Long-term fatigue will cause repetitive strain injury. All these have not yet been included in the Schedule on occupational diseases. Thus, we demand that the authorities include muscle and bone diseases and fatigue in the scope of occupational diseases to enhance protection for front-line employees.

Deputy President, just as some colleagues pointed out, passing the resolution on the ECO today is just making stereotyped improvements. That said, we of course will also support it. However, since the ECO is closely knitted with improving employees' interests, apart from speaking in support of the resolution, I am also obliged to point out the shortcomings of the present ECO. I hope the authorities can make more improvements in the future. Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): I speak in support of the Government's resolution, but I also think that this is a very good occasion to urge the Government to expeditiously carry out a comprehensive review of the ECO. Earlier, many colleagues criticized the Government in chorus that the minor amendment made this time around not only fails to solve the problem, but also neglects the need for employee compensation. I hope the Secretary can really hear our voices and will not think that so long as this resolution is passed, it would be nobody's business. In a nutshell, the current amendment greatly falls short of the demand of the massive wage earners, and some shortcomings do actually exist.

The first shortcoming is the failure to conduct a lag review. What is a lag review? Just as the Government said, there was one adjustment in 1998. In 2008, that is, a decade later, the relevant level was set. Deputy President, that adjustment was only up to 2008, and it has been three years since. After a decade, up to 2008, the Government only adjusted the compensation for several

items upwards by 2.34%. Deputy President, taking this year's estimate by the Census and Statistics Department alone, the increase is already 2.5% to 5%. This is the so-called lag review. Why is there such a situation? As presented in the document, in the previous years (that is, before 2008), the real growth in wages had been very low, hence it was already very fortunate that the relevant amounts had not been adjusted downwards. This was like a big boon. Thus, the first point is to conduct a lag review.

The second shortcoming is unreasonable restriction. Some colleagues earlier queried why the ceiling was set at \$21,500. Actually, this level, set several decades ago, is totally outdated. If it is only \$20,000-odd now, you can say that "the quantity of salt bought will not give a salty taste, nor will there be a spicy taste from the quantity of ginger bought", how can it help to make ends meet?

The third shortcoming is double standard. Ms LI Fung-ying was right. For Ordinances under the ambit of the same Secretary, why does the Government set the amount at \$22,500 for the calculation of severance pay and long service payment, while adjusting the amount for calculating compensation to only \$21,500 this time? Why are there two standards? I wish to hear the Secretary's explanation later. It is contradicting itself with these double standards. Is the level set high or low? What in fact is the standard?

The fourth shortcoming is that the scope is too narrow, and this is the monumental reason for us to review the Ordinance comprehensively. Colleagues have earlier cited many arguments explaining that the present Ordinance on compensation fails to protect the wage earners of many new industries and those employed in new Modes of employment. Therefore, I very much hope that the Secretary can respond to these four shortcomings. I wish he can say whether our demands will be accepted, and whether a timetable for a comprehensive review of the ECO will be set after the passage of today's resolution. I believe this is the answer we want to hear most.

I hope the Secretary can respond to these questions directly later on. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Labour and Welfare to reply. This debate will come to a close after the Secretary has replied.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, I would like to thank Mr IP Wai-ming, Mr LEE Cheuk-yan, Ms LI Fung-ying and Mr WONG Kwok-hing for their speeches. All of them are basically supportive of this resolution. Thank you. Certainly, they have raised many precious and constructive proposals, asking us to examine the Employees' Compensation Ordinance (ECO) objectively. I would like to respond briefly and concisely.

First, Members said the ECO has been in effect for a very long time, and we should examine it. I would like to point out that we have in fact reiterated time and again that all along, our labour policy is to review our policy and legislation from time to time in the light of Hong Kong's economy, social environment and the pace of development, together with the actual situation, so as to ensure that we can keep up with the times and meet the needs of society and the aspirations of employers and employees.

On the Ordinance pertaining to employees' compensation, I wish to say that in recent years, the Government has done much work in various areas, rather than staying put. For example, the ECO was amended in 2008, recognizing treatment and body check given by Chinese medicine practitioners and certifications issued by them in employees' interest under the Ordinance. This is a breakthrough. In the same year, Members will remember that mesothelioma sufferers can get compensation as a result of amendments to the Pneumoconiosis and Mesothelioma (Compensation) Ordinance. Moreover, Members will also remember that earlier this year, we made amendments to the Occupational Deafness (Compensation) Ordinance, enhancing the protection for people suffering from occupational deafness. I have cited these examples to demonstrate that we do not just look at one single ordinance, rather, we have our

eyes on the overall general environment. So long as we can, we will do so. At the present stage, we should be more pragmatic. I agree with Members that we cannot maintain the *status quo*. We should change continuously with the environment, and carry out continuous reviews in accordance with the actual situation. Therefore, this policy is not going to change, that is, we will not turn a blind eye to the latest development. We will continue to make efforts.

Earlier, Members expressed great concern about some practical matters, such as the amount of compensation, the monthly income ceiling of \$21,500, compensation for permanent total incapacity and the minimum compensation for death. I would like to explain a few points here. First, as the principle of disregarding faults is adopted currently for the entire employees' compensation system, that is, regardless of whether the employers are at fault or negligent, employees will be given statutory compensation, we have to strike a suitable and proper balance between employees' interests and employers' affordability when determining employers' statutory compensation level. This is very important.

Just now, Members may have some misunderstandings, therefore, I have to make a couple of clarifications. There is no income ceiling for the calculation of money for sick leave resulting from injury at work, which is four fifths of wages. Actually, Mr IP Wai-ming said earlier that the ECO does not absolve employers from liabilities in civil proceedings. In other words, if an employee sustains injury and thinks that negligence or fault on the part of the employer is to blame, apart from getting statutory compensation for injury, the employee can also initiate civil proceedings under common law to claim damages. This is his basic right, and it is also allowed by law.

(THE PRESIDENT resumed the Chair)

Moreover, I would like to again respond specifically to the issue of the minimum amount, that is, the minimum basic compensation level of \$310,000 mentioned by Mr LEE Cheuk-yan and several other Members. I would like to clarify that the purpose of setting the level at \$310,000 is to look after the interest of those employees who work shorter hours with lower income. In cases of injury at work, regardless of what the employees' wages are, even if they may just

work for one hour, when they sustain injury because of work, they are sure to get the \$310,000 minimum reasonable compensation. This is very important. As for the future development of minimum wage as mentioned by Members, we have not neglected that. What we see right now are the old data of 2008 rather than figures reflecting the latest development. I can make a categorical assurance that after the enactment of the minimum wage law, we will surely pay attention to the level, and will consider in the light of actual need whether the minimum level of compensation should be adjusted. We will do this certainly. We still have time. At the moment, it has not been fully implemented. Once implemented next year, we will definitely act according to the actual data.

Finally, I would like to respond to the issues of back pain, repetitive strain injury, and so on, mentioned by Mr IP Wai-ming. At the last two meetings of the Panel on Manpower, I clearly explained that the Labour Department would consider several factors when determining which occupational disease should be included as compensatory occupational disease in our labour legislation. In so doing, the Department will take on a professional and objective angle, including making reference to the relevant criteria of the International Labour Organization, the pattern of local diseases and other relevant factors. Since back pain, repetitive strain injury, and the like generally involve complicated reasons, with some resulting from various reasons affecting one another, for example, sitting postures, repetitive actions, degeneration of the body, and many other reasons, it is not easy to establish a direct link between work and fatigue under such circumstances. Hence, it is not that we do not want to address the issue, only that practical difficulties exist.

Mr WONG Kwok-hing and Ms LI Fung-ying said \$22,500 is used for calculating severance pay, and asked why then \$21,000 is used for calculating compensation. Regarding this, we do realize the difference. The historical background and nature of these two pieces of legislation are different, therefore, no comparison can be drawn, nor can the two amounts be levelled. Nonetheless, I said earlier that depending on social development, we will in the future look into whether there is room for us to improve this. I definitely will not rule out the possibility that we can continue to improve this in the future.

President, I would like to reiterate that on the levels of compensation stipulated by the ECO, the Government will carry out a review every two years to ensure that the levels are compatible with changes in wages and price levels. As

for the criteria employed for review, they are agreed between the employers and the employees and have been effective throughout the years. The amendment proposals this time have the general support of the Labour Advisory Board and the Panel on Manpower of the Legislative Council. If the findings of future reviews indicate that compensation levels for employees have to be adjusted or enhanced, in particular in the light of impacts, if any, caused by the minimum wage to be implemented in the future after enactment, we will surely adopt an open attitude and hold frank discussions, in the hope that a consensus can be reached before making an all-out effort in this regard. President, I hereby implore Members to support and pass this resolution, so that employees sustaining injury at work and their families can be benefited early.

Thank you, President.

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Country Parks (Designation) (Consolidation) (Amendment) Order 2010.

PRESIDENT (in Cantonese): I now call upon Miss Tanya CHAN to speak and move her motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

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

In my capacity as Chairman of the Subcommittee on Country Parks (Designation) (Consolidation) (Amendment) Order 2010 (Amendment Order), I move that the period of scrutiny be extended to the first sitting of the next session of the Legislative Council (that is, 13 October 2010).

Since the Subcommittee has to meet with organizations and to carry out site inspection at the South East New Territories Landfill, I implore Members to support the motion on extending the period of scrutiny of the Amendment Order to 13 October 2010.

Miss Tanya CHAN moved the following motion:

"RESOLVED that in relation to the Country Parks (Designation) (Consolidation) (Amendment) Order 2010, published in the Gazette as Legal Notice No. 72 of 2010 and laid on the table of the Legislative Council on 9 June 2010, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the first sitting (within the meaning of section 34(6) of that Ordinance) of the next session of the Legislative Council."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

I now call upon Mr TAM Yiu-chung to speak and move his motion.

**PROPOSED RESOLUTION UNDER ARTICLE 75 OF THE BASIC LAW
OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE
PEOPLE'S REPUBLIC OF CHINA**

MR TAM YIU-CHUNG (in Cantonese): President, I move that the resolution on amending the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be passed.

In a recent review of the relevant rules on shortening the duration of the division bell, the Committee on Rules of Procedure (the Committee) noticed that the effect of Rule 49(4) of the Rules of Procedure is completely different from the then original intention (that is, back in 1996) and the actual practice of this Council. In this connection, the Committee proposed that this Rule should be amended. At the same time, the Committee also proposed to amend the English text of Rule 49(6) of the Rules of Procedure to make it consistent with the Chinese text.

On Rule 49(4), according to the existing wording of the Rule, it covers only divisions on amendments as far as proceedings on bills are concerned. It does not cover other proceedings on bills at the Committee stage, for example, questions proposed to move that particular clauses stand part of the bill cannot apply the arrangement for shortening the duration of the division bell. This practice may easily confuse Members. In fact, it is the usual practice of this Council that during the Committee stage of bills, the arrangement for shortening the duration of the division bell is applicable to divisions on any provisions of a bill and amendments to it. Hence, the Committee proposed that this Rule be amended to reflect accurately the then proposal and the actual practice.

As regards Rule 49(6), the Committee noticed that the Chinese text has not specifically stipulated that the motion on shortening the duration of the division bell must be moved immediately after the result of the first division has been declared. This Rule is consistent with the actual practice. However, the English text stipulates that the motion on shortening the duration of the division bell must be moved immediately after the result of the first division has been declared. In other words, if due to various reasons during the meeting, that motion cannot be moved immediately after the result of the first division has been declared, Members will not be able to move a motion on shortening the duration of the division bell in all further divisions. This practice lacks flexibility. Therefore, the Committee proposed to amend the English text of this Rule to reflect the actual practice, and remove the inconsistency between the Chinese and English texts of that Rule.

The House Committee has expressed support for the two proposed amendments as contained in the resolution. I so submit. Thank you, President.

Mr TAM Yiu-chung moved the following motion:

"RESOLVED that Rule 49 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended —

(a) in subrule (4) —

(i) by repealing "on an amendment to a bill" and substituting "on any provision of or any amendment to a bill";

(ii) by repealing "in respect of any amendments to the bill" and substituting "in respect of any provisions of or any amendments to the bill";

(b) in subrule (6), in the English text, by repealing "the first division" and substituting "a division".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr TAM Yiu-chung be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr TAM Yiu-chung be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of these motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendment(s); the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): First motion: Safeguarding Hong Kong people's freedom of expression.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr CHEUNG Man-kwong to speak and move his motion.

SAFEGUARDING HONG KONG PEOPLE'S FREEDOM OF EXPRESSION

MR CHEUNG MAN-KWONG (in Cantonese): President, the Goddess of Democracy statue is the icon of the pro-democracy movement of 1989. It fell in the bloodbath of Tiananmen and it is an important fragment and an indelible memory of the history of the 4 June Incident. The massacre, manhunt and narrow escape after the 4 June crackdown are episodes in history that the people of Hong Kong do not want to recall and dare not forget. In the 21 years since, the people of Hong Kong commemorate the pro-democracy movement of 1989 and calls for its vindication have never ceased. The torch of democracy passes on from one generation to the next. The pro-democracy activities held each year on 4 June is a barometer of the freedom of speech and expression which Hong Kong people are supposed to enjoy under "one country, two systems". It is also

a touchstone to tell whether or not this Government is able to uphold freedom and the rule of law.

Regardless of whether it was during the colonial era or after the reunification with China, the freedom of speech and expression is one of the core values most cherished by the people of Hong Kong. Articles 27 and 34 of the Basic Law stipulate that Hong Kong residents shall have freedom of speech, of the press and publication; freedom of assembly, of procession and of demonstration. They shall have freedom to engage in literary and artistic creation, and other cultural activities. All in all, people shall be allowed to speak out and protest. The personal freedom of residents of Hong Kong includes the freedom from arbitrary and unlawful arrest, detention and imprisonment. All these are written clearly into the Basic Law. Now there is no sound electoral system of democracy and universal suffrage. Hence safeguarding Hong Kong people's freedom of speech and expression is all the more vitally important because the people can thus enjoy a greater right to know. By engaging in discussions on various issues and various kinds of lawful forms of expression, this collective monitoring force of the people can be brought into full play in upholding equity and justice in society.

President, the statue of the Goddess of Democracy has great significance in the bitter history of the pro-democracy movement of 1989. It carries the collective memory of the people. It follows that displaying the statue of the Goddess of Democracy is a respect paid to history, an embodiment of this quest for democracy. Any act of sacrilege committed to the statue of the Goddess of Democracy is a kind of political censorship even if it is done under the façade of law. It is a provocation of the beliefs and sentiments of the people. For many years the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (the Alliance) has erected the Goddess of Democracy statue in the Victoria Park and also put the statute in public display at the Times Square on more than one occasions and so far no havoc had been caused.

Around 4 June this year, the Alliance displayed a new Goddess of Democracy statue and a relief sculpture of the Tiananmen massacre on the same spot at the Times Square. The police were informed beforehand and no objection was raised. When the statue came to the vicinity of the Times Square, some police vehicles were even there escorting the statue and clearing the way for it. But why was prosecution then initiated and the statue seized and detained at

the North Point Police Station? The Food and Health Bureau had orchestrated the whole thing in advance and even a lorry with a crane was on stand-by. These exhibits mourning the 4 June Incident were seized and removed. York CHOW even had the cheek to say that the statue of the Goddess of Democracy had breached the Places of Public Entertainment Ordinance. The statue bears memory of the bloodshed during the crackdown and it was insulted as being a form of public entertainment and since no licence had been issued, arrests were made. Altogether 13 members of the standing committee of the Alliance and some volunteers were detained by force at the North Point Police Station.

This is the most brutal suppression of the 4 June activities throughout the last 21 years. Certainly, the police knew only too well that prosecutions against the Alliance would not be justified. So what they could do was only to return the relief sculpture and the two statues of the Goddess of Democracy unconditionally. As the saying goes, one senses the onset of autumn in a fallen leaf. When the law has been relegated into a butcher's knife to suppress such commemorative activities, the alarm has sounded for the freedom of speech and expression in Hong Kong. The creator of the new Goddess of Democracy statue, an American Chinese called CHEN Weiming was refused entry to Hong Kong by the Security Bureau. Ambrose LEE, the Secretary for Security, argued in a most specious manner that the Immigration Department had acted according to the law and the case had nothing to do with political suppression. But the memory of Hong Kong people is still fresh. Last year on the eve of 4 June, the Danish sculptor Jens GALSCHOT who created the sculpture in memory of the 4 June Incident called *Fragments of a Democracy Story* was similarly refused entry. Both Jens GALSCHOT and CHEN Weiming are artists and they create works of art in memory of the 4 June Incident, and they were both refused entry to Hong Kong on the eve of 4 June. Both two artists were permitted to enter Hong Kong before. Any person with a clear mind can arrive at an unequivocal conclusion from their being refused entry to Hong Kong on the eve of 4 June that this is a blatant act of political suppression stemming from the paranoid phobia of the SAR Government for the 4 June Incident. The solemn pledge of "one country, two systems" is as fragile as a piece of paper in the rain, torn into pieces by this storm that gathered around the statue of the Goddess of Democracy.

The SAR Government has invoked technical provisions in law time and again to tighten the screw on Hong Kong people as they commemorate the 4 June

Incident. This is an attempt to revive the draconian law to invoke Article 23 to curb the freedom of speech. The Government even invoked the Telecommunications Ordinance and prosecuted the Chairman of the Alliance SZETO Wah who attended a programme of the Civic Radio as a guest. This is a living example of this attempt to suppress the freedom of speech. The proceedings have been going on for three years and on 13 occasions — it is 13 times — the Court has ordered a stay. And SZETO Wah appeared in Court for seven times and the date of the trial is still not fixed. It shows the Office of the Telecommunications Authority is resorting to the same course of action to oppress people with the law. This aggrieved case of SZETO Wah is an extremely dangerous sign. Just imagine, 13 hearings spanning three years would mean to a person without legal aid either to yield in disgrace or to plead guilty. How can anyone have the sufficient manpower, resources and wealth to resist the giant state machine? Therefore, I have moved this motion to call on the Government to stop targeting SZETO Wah with fabricated charges and so suppress the freedom of expression in the pro-democracy movement. This will ensure that people with different political views can exercise the lawful right of freedom of speech and expression, thereby upholding the core values of Hong Kong people. This high-handed suppression of 4 June activities by the SAR Government will only invite greater grievances and cause rebound in the people. The candles lit by 150 000 people in the candlelight vigil this 4 June are proof that the memory will live forever in the minds of the people.

The freedom of speech and expression of Hong Kong people is not only protected by the Basic Law. As a signatory to the international covenants on human rights, the SAR Government is obliged to ensure that the enactment and enforcement of laws in Hong Kong conform to the spirit of the covenants and is kept abreast of the times. It should ensure that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." I therefore support the amendment proposed by Mr Ronny TONG. I demand that the Government comprehensively review the existing laws of Hong Kong to ensure that various ordinances relating to freedom of speech and expression conform to the spirit of the Basic Law and international covenants on human rights.

President, 21 years ago, the former Vice-Chancellor of The Chinese University of Hong Kong (CUHK), Prof Charles KAO, led a large number of

heads of colleges and faculties and published a statement in the newspaper to condemn the bloody crackdown of the 4 June Incident. Now 21 years later, CUHK refused the application made by its Student Union to permanently display the statue of the Goddess of Democracy on the campus on grounds of political neutrality. As an alumnus to CUHK and a member of the Council of the University 10 years ago, I still hold on to this good tradition of the students of CUHK in caring for the nation and society. We dare to speak out against social injustice and we carry the destiny of our nation on our shoulders. The 4 June Incident is an immense issue of right and wrong of our Chinese race and it shows the sin of the Chinese Government at that time in butchering the students. Sooner or later, it will be vindicated. At that time, the faculty and students of CUHK came forth and staged huge strikes in protest in Hong Kong. They gave their fervent support in Beijing, took part in the march in Guangzhou and helped the leaders of the pro-democracy movement in their escapes. Members may still recall that when CHAI Ling, the commander-in-chief of the students in Tiananmen, and her husband FENG Cong-de escaped to Hong Kong, the first place they went to was the Benjamin Franklin Building at CUHK. This is the headquarters of the Student Union. It is there that they sought political asylum. Then they went on to their exile in Paris. The faculty and students at CUHK have this part of history that they can rightly be proud of during the pro-democracy movement of 1989. How can the CUHK administration forget this part of history, and how can they refuse the display of the statue of the Goddess of Democracy? How can this lame excuse of political neutrality be advanced, and how can the spirit of tolerance and accommodation be discarded? We give our support to the faculty and students at CUHK to manifest the spirit of democracy by conducting a referendum to decide whether the statue of the Goddess of Democracy should be erected on campus for permanent display. We urge that as a bastion of conscience for the protection of the freedom of speech in society, CUHK should tolerate different political stands and voices by allowing the free expression of different ideas on campus. And this is the truly progressive embodiment of political neutrality. That is what a university campus should be: one filled with tolerance that enables new generations of students to take up the torch of democracy. With the permanent display of the Goddess of Democracy statue on campus, this is an answer to the glorious episode of history 21 years ago when students of CUHK took part in the pro-democracy movement of 1989. This also demonstrates that the University has the breadth of mind and tolerance, that intellectuals have the responsibility

and commitment to care for their country, and that they will assume the social responsibility of steadfastly defending academic freedom and the freedom of expression.

Lastly, I must use this opportunity to pay tribute in this solemn Chamber to the volunteers of the Alliance who have held on to their convictions throughout these 21 years. Some of them were arrested in their attempt to protect the Goddess of Democracy statue. But they are no more than volunteers. It is because of their endeavour and persistence that the freedom of speech in Hong Kong and the room for free expression are safeguarded. The candlelight vigil held each year on 4 June and the calls for the vindication of the 4 June Incident have become cries from the conscience and they will pass on. Because of the time zone difference, many overseas Chinese were moved when they turned on the TV and saw in the morning that the Victoria Park was lit up with candles. They are moved as they have been for 21 years. These volunteers have fought for years and credit must go to them. They are our true friends. And they are simple, honest and patriotic people of Hong Kong. They were arrested because of the statue of the Goddess of Democracy, and they were suppressed for the cause of the freedom of expression. I demand that the SAR Government revoke all the fabricated charges laid upon them, for they are the pride of Hong Kong and China. What they have done will be engraved in the memory of Hong Kong people, in the same way as the history of the struggle for the vindication of the 4 June Incident is.

With these remarks, President, I beg to move the motion, and we support the amendment proposed by Mr Ronny TONG.

Mr CHEUNG Man-kwong moved the following motion: (Translation)

"That, the activities held by Hong Kong people this year in remembrance of the 4 June incident were repeatedly suppressed; following the seizure of the Tiananmen Square Massacre relief sculpture and the two Goddess of Democracy statues by the police on grounds that the Hong Kong Alliance in Support of Patriotic Democratic Movements of China had breached the Places of Public Entertainment Ordinance, the Immigration Department denied the entry of CHEN Weiming, the creator of the new Goddess of Democracy statue, to Hong Kong, while The Chinese University of Hong Kong also rejected the request of its Student Union to

permanently display the Goddess of Democracy statue on the campus on grounds of political neutrality; the series of incidents have caused worries that the freedom of speech and expression in Hong Kong is being gradually restricted, and the principle of 'one country, two systems' exists in name only; as safeguarding democracy and the rule of law while respecting the freedom of pluralistic expression is one of the core values of Hong Kong people, this Council urges the Government to cease suppression of pro-democracy activities and ensure that people with different political opinions can exercise their lawful right to freedom of speech and expression; this Council also calls upon all universities, being the highest academic institutions in pursuit of academic excellence and truth, to uphold the spirit of pluralism and openness, accommodate different voices and discharge their social and moral responsibilities of defending academic freedom and freedom of expression."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHEUNG Man-kwong be passed.

PRESIDENT (in Cantonese): Mr Ronny TONG will move an amendment to the motion. This Council now proceeds to a joint debate on the motion and the amendment.

PRESIDENT (in Cantonese): I now call upon Mr Ronny TONG to speak and move his amendment.

MR RONNY TONG (in Cantonese): President, many people have said that democracy has to be protected by the rule of law and the freedom of speech. However, I would think that when a system lacks in democracy, the rule of law and the freedom of speech will become the last line of defence in upholding civilization and social justice. And we can never retract from this last frontier.

President, fortunately, the state of the freedom of speech in Hong Kong after the reunification can be said to be acceptable indeed. But we notice that things have changed somewhat recently and there are two particular events that

have made us feel that the authorities, those in power or the pro-establishment camp have invoked certain specious arguments and certain paradoxical, extremely improper and outdated laws to curb the freedom of speech.

President, these two events mentioned by me relate to the display of the statue of the Goddess of Democracy. What I mean is, first, the Goddess of Democracy statue was seized or tried to be seized by law-enforcement officers of the SAR Government at the Times Square by the invocation of a long forgotten piece of legislation called the Places of Public Entertainment Ordinance. It may be due to the pressure exerted by public opinion or the uproar that was caused that the Government did not press any charge eventually. But the event warrants our grave concern because such an Ordinance was invoked to suppress the freedom to express political opinions concerning the 4 June Incident.

Another event is about the Council of CUHK requiring the students not to erect a statue of the Goddess of Democracy on the campus on grounds of political neutrality. President, these are simply the results of false reasoning. President, please allow me to use an example which you may think is a bit funny, but I think that it makes the same sense. President, in this Council, many Members may speak in a most entertaining manner. Mr CHIM Pui-chung is one such example. The speech made by Mr Fred LI last week was most entertaining, too. But does it mean that this Council has become a place of entertainment? President, definitely not. Let me use another analogy. President, when you sit in the President's Chair, you must remain politically neutral in every sense and you must not be biased and favour any political belief or view. But does it mean that because you are the President that no Member of this Council can express his or her views on politics? The answer is definitely not.

President, such specious arguments are worrying. The invocation of a so-called Places of Public Entertainment Ordinance to curb the freedom of speech is a total neglect of certain principles in respect of the constitutional system which are more important. What I am referring to is the provision in Article 39 of the Basic Law which states that the international covenants on human rights shall be implemented in Hong Kong. The covenants had been implemented in a restricted manner before the reunification through the Hong Kong Bill of Rights Ordinance.

President, please allow me to remind Honourable colleagues of some provisions in one of the covenants. The provisions state clearly that "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." It is obvious that the use of a statue of a goddess to impart a certain political message is fully protected by the provisions of the covenant. If the covenant has a constitutional status and if some people invoke the Places of Public Entertainment Ordinance to curb freedom, then such a move is obviously unconstitutional. If such a piece of legislation can have produced such an effect where constitutionally speaking, it should be devoid of any legal effect, I think an explanation from counsel to the Government, namely the Secretary for Justice, is required. But unfortunately, the Secretary for Justice is absent today.

President, even if we do not talk about the covenant but only the laws of Hong Kong, we do have similar or closely similar provisions. President, of course I am talking about the Hong Kong Bill of Rights Ordinance (BORO). Let me read out some of the very similar provisions in brief: "(1) Everyone shall have the right to hold opinions without interference. (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art," please note "art" is included, "or through any other media of his choice." President, the only difference is that paragraph (3) is added to the BORO as a provision which is not found in the covenant. This can be said to be a provision added for purposes of adaptation. But it should not give the Government any pretext to make a move which is so unreasonable on this occasion to curb the freedom of expression.

President, paragraph (3) states that "The exercise of the rights provided for in paragraph (2) of the article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the rights or reputations of others; or (b) for the protection of national security or of public order (order public), or of public health or morals." President, you should have noticed that the so-called restriction clauses only apply to paragraph (2) which I have read out

but not paragraph (1). What is said in paragraph (1) is "Everyone shall have the right to hold opinions without interference."

Since it is put in this manner, on a *prima facie* case, the decision made by the Council of CUHK is not only a contravention of the constitutional principle which I have just mentioned, but it is also a contravention of the BORO. Why? While the application of the BORO is limited and this is also one imperfection of it and later on I will talk about the reasons for proposing this amendment, under the existing law, this Ordinance includes a number of public bodies and pursuant to a case decided at the Supreme Court, tertiary institutions should also be included. Therefore, CUHK is undoubtedly subject to the BORO. If the Council of CUHK neglects the freedom of speech and expression vested in the people by law, and invokes the grounds of political neutrality and refuses the application for the public display of the Goddess of Democracy statue, then the Council of CUHK has totally neglected its constitutional responsibility and the obligation to comply with the laws of Hong Kong. Such an act is totally unacceptable.

President, having said all this, I actually mean that Hong Kong dearly cherishes the freedom of speech and expression. It is unfortunate that many laws in Hong Kong are unable to keep up with the changes of the times. They cannot conform to the basic provisions in the covenant and Article 39 of the Basic Law in the constitutional context. An example is that the BORO mentioned by me just now is only applicable to the Government and certain statutory bodies. It is incapable of protecting every person. Moreover, I wish to point out that Hong Kong people have on many occasions expressed their opinions on the Public Security Ordinance, but this Ordinance is completely out of touch with the times.

Next, I wish to talk about the Telecommunications Ordinance. This Ordinance was already outdated before the reunification and it is still using an approach adopted during the colonial era to deal with the issue of the allocation of airwaves resources. So this Ordinance is incapable of safeguarding the rights of Hong Kong people in this respect.

Fourthly, we still lack a law to safeguard the people's rights of communication and the expression of opinions. I think the Government has the responsibility to review whether this piece of legislation is sound.

Thank you, President.

Mr Ronny TONG moved the following amendment: (Translation)

"To add ": (a)" after "this Council"; and to delete "this Council also" after "lawful right to freedom of speech and expression;" and substitute with "(b) urges the Government to comprehensively review the existing laws of Hong Kong to ensure that the various legislation relating to freedom of speech and expression meets the needs of modern society and conforms with the spirit of the Basic Law and 'international human rights treaties' in protecting the freedom of speech and expression; and (c)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Ronny TONG to Mr CHEUNG Man-kwong's motion be passed.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, since the reunification, the Central Government and the SAR Government have all along unswervingly supported and safeguarded the full implementation of "one country, two systems" in Hong Kong. In fact, the freedom and rights of Hong Kong residents, including the freedom of speech and expression, are fully protected under the Basic Law, the Hong Kong Bill of Rights Ordinance (BORO) and other local laws.

The freedom of speech and expression enjoyed by Hong Kong residents is protected in law. As specified in Article 27 of the Basic Law, Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration. According to Article 39 of the Basic Law, the provisions of the International Covenant on Civil and Political Rights (ICCPR) as applied to Hong Kong shall remain in force. The provisions of the ICCPR concerning freedom of opinion and expression, and the right of peaceful assembly have been included in Articles 16 and 17 of the

Hong Kong Bill of Rights and implemented through the laws of Hong Kong. Hong Kong laws and the measures and acts of the Government and public authorities shall not contravene the above provisions for the protection of human rights.

The freedom of speech and expression is one of the core values in Hong Kong. Being protected under the abovementioned mechanisms, everybody can follow his will and hold any views, and he also has the right to express his views, and receive and convey various ideas and messages through various media. However, the freedom of speech and expression is by no means absolute. It is specified in Article 19(3) of the ICCPR that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in the interests of national security or public safety, public order, the protection of public health or morals.

Concerning the amendment proposed by Mr Ronny TONG, after the enactment of the BORO in 1991, the Government has reviewed the local laws in accordance with the provisions of the BORO and proposed amendments so that the provisions therein are consistent with those of the BORO and also the Basic Law. Moreover, the Government has established procedures according to which the Department of Justice must be consulted about the impacts on human rights in the course of drafting and amending all legislation so as to ensure that all new legislation and amendments to the existing legislation will not contravene the provisions of the Basic Law and the BORO for the protection of individual rights and freedom.

Academic freedom is an important social value that Hong Kong has all along held in esteem, and the autonomy of institutions is the cornerstone of the success of higher education in Hong Kong. On the premise of being autonomous, institutions are able to properly fulfil their responsibilities.

President, since the reunification, Hong Kong has successfully implemented the Basic Law, and the guidelines of "one country, two systems" and "Hong Kong people ruling Hong Kong" with the support of the State. There is no factual basis for Mr CHEUNG Man-kwong's remark that "one country, two systems" exists in name only. In accordance with the Basic Law, the SAR exercises a high degree of autonomy and enjoys executive, legislative and independent judicial power, including that of final adjudication. The full and

successful implementation of the concept of "one country, two systems" is an everyday reality in Hong Kong in respect of the legal system and many other fields, including external affairs, economic and trade, and so on.

President, I will respond to the issues in individual areas after listening to Honourable Members' views on this topic.

Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): President, on 29 and 30 May, a woman was forcefully taken away in broad daylight here in Hong Kong. We all know that this woman is the Goddess of Democracy statue. I do not know if there is a jinx on this year or the suppression by the SAR Government has escalated. As we all know, I have been a committee member of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (the Alliance) for 21 years and before that I had been in the labour movement for 10 years. During these some 30 years, this is the year in which I have been arrested the most number of times. All of my records have been broken this year. I was arrested twice in two days because of the statue of the Goddess of Democracy. Why has Hong Kong come to this pass? For what happened in these two days, I can only say that I feel very angry and sad.

I am angry because the SAR Government has become so mean that it had set up a trap to frame up the Alliance and it was prepared to use police force to suppress a most ordinary demonstration and publicity activity. I feel very sad because the freedom of speech in Hong Kong is dead, and the rule of law is dead. In this event, it is clear that the law is used as a tool of suppression by those in power. It is unfortunate that WONG Yan-lung is not here. I recall on that day when we discussed the constitutional reform package, I was enraged when Ms Audrey EU said that there was no reason why the law should be used as a tool by some people. In this event, it is clear that the law is used as a tool.

What is left of the rule of law in Hong Kong now? The Government is following the footsteps of the Mainland in its "acting in accordance with the law". The Under Secretary said earlier that Mr CHEUNG Man-kwong was making an overstatement when he said that "one country, two systems" was dead. I think

on the contrary that Mr CHEUNG was perfectly right. The most important thing about "one country, two systems" is the rule of law. Now the rule of law is dead. The law has become a tool. Now the Hong Kong Government is not practising the rule of law; it is "acting in accordance with the law". What is meant by "acting in accordance with the law"? It means they look up the statutes and think of a way to fix you. I must sing them praises because the trap they set up was not bad.

Why did I say that they had laid a trap? First, there is no reason why the Food and Environmental Hygiene Department (FEHD) took action all of a sudden. The Director of the FEHD said that when he read the newspaper and learnt of the activities of the Alliance, it dawned on him that he should take enforcement action. How amazing! There are so many activities held each day and why did he think that he had to take enforcement action when he read reports on the activities of the Alliance? Second, the lorry with a crane was booked beforehand on 28 May. Did he foretell that we would break the law? He knew beforehand that the Alliance would certainly break the law and so he booked a lorry in advance. The police had been very co-operative and our volunteers were very happy on that day because, to their surprise, the police cleared the way for us to the Times Square. The police even drove away a car which happened to park there, in order to enable us to place the statue of the Goddess of Democracy for display. Had we broken the law, the police could be said to have aided and abetted us. If placing the statue for display breaks the law, then why should they be so kind as to help us? Then the FEHD said that it would issue a summons and prosecute us. The police then came and wanted to confiscate the statue, or else we would be charged with obstructing the police in the discharge of their duties. As I did not want them to seize the statue, I was arrested for obstructing the police in the discharge of their duties.

The action of confiscating the statue was most ridiculous. Why should it be confiscated? It is like the case of Long Hair smoking on the street and being fined for \$1,500 and his cigarettes seized from him, or else he would be arrested. If I have broken the law, then give me a summons and sue me. The police cannot say that because I tried to protect the statue of the Goddess of Democracy, and so they had to arrest me. This was what happened on these two days. It was the same for the big statue of 4.5 m and the smaller one of 2 m. If I bring along any one of them when I go out, will the same thing happen to me? This statue I have now may only be one foot tall, but this is also an exhibition.

According to the law for licences concerning places of public entertainment, if any object is put on display, law enforcement will be taken irrespective of its size. There are so many people who carry sculptures around every day and Donald TSANG once put on display a bus with a banner with the words "Act Now". Why was he not required to apply for a licence? The authorities must tell me later whether or not a licence has ever been applied for the banner displayed by Donald TSANG. This is how the authorities suppress us. They invoke such an absurd law and tried to fix us for not having applied for a licence for a place of public entertainment.

Why did I say that the suppression has escalated? Both the Alliance and the Federation of Students had displayed the statue of the Goddess of Democracy last year in the same place and the height of the statues was also 2 m, but nothing had happened. That was last year. Why is it that it was all right last year but not this? Why was it permitted last year? No one has ever made any complaint and it is only when the FEHD chief learnt about this in the newspaper that he targeted us. He targeted us deliberately, despite no complaints having been made. In the end, it caused so much trouble for us. I do not mind being arrested. But 13 volunteers including me were arrested. Two more were arrested the following day. I was put under arrest for two days in a row. And I do not know even now whether or not I will be prosecuted. But I hope very much that I will.

Under Secretary, I now make a plea on you, and you should do what you people have said — they said at the Times Square on that day, "We will book you here and now." But so far I have not yet received any summons. Please give that summons to me, for I do not want to apply for leave to file a judicial review. Many people have asked me if I want to file a judicial review. Of course, I would want to, but the thing I want most of all is you suing me first and I will then instigate a civil claim against you. I have not settled with you the fees for moving the statue to the Victoria Park. I want very much that you will sue me. Please answer me that later. Since you said on that day that I would be booked at once, why is that not done? Please issue me a summons. If not, it is only proof that the rule of law is dead.*(The buzzer sounded)* You said on that day that a summons would be issued.

PRESIDENT (in Cantonese): Mr LEE, your speaking time is up.

MR LEE CHEUK-YAN (in Cantonese): Thank you, President.

MR KAM NAI-WAI (in Cantonese): President, does "one country, two systems" exist in name only? Has the law been used as a tool of suppression? I am not sure if Honourable colleagues attended the meeting of the Panel on Food Safety and Environmental Hygiene on 21 June. If they had not, they can refer to the audio or video recordings, and I am sure they will feel very indignant after listening to or watching them. First of all, all accountability secretaries disappeared from the scene on that day as they knew perfectly well that it was a sensitive political issue. There were no signs of the Secretary for Home Affairs, the Secretary for Food and Health or Secretaries like Mr Stephen LAM, and not even Under Secretaries. Mr Raymond YOUNG, Permanent Secretary for Home Affairs, and Mr CHEUK Wing-hing, Director of Food and Environmental Hygiene, attended the meeting. According to the relevant paper, an official from the Department attended the meeting because enforcement actions were involved. Why did the Policy Secretaries dare not attend the meeting? What were the reasons?

Second, an Honourable colleague has just said that, Director CHEUK Wing-hing told the meeting that he had read some press reports on that day. However, it is really strange that he only asked if the Alliance had applied for an exhibition permit after he had read the press reports, and actions were thereby taken. Actually, there were also press reports on the exhibition held by the Alliance at the same location last year. The Director failed to answer us the other day why they had not read the press reports last time. Why did they only read the press reports this time? This is another question that he failed to answer.

Third, I think the most ridiculous point about this enforcement action is that, according to the relevant paper, the staff of the Food and Environmental Hygiene Department (FEHD) had asked the organizer at the time and they were told that the material was used for exhibition purpose, so they were prosecuted because they had not filed an application. Since the organizer said that the material was used for exhibition purpose, they were prosecuted by virtue of the Places of Public Entertainment Ordinance. I have a question: it might be said that the Goddess of Democracy statue was used for exhibition purpose on the first

day; was the Goddess of Democracy statue which was 2 m tall also used for exhibition purpose on the second day? I saw on television that LEE Cheuk-yan was holding a placard with the words "Protest against political suppression" written on it. If that was an exhibition, I would have asked the Director on that day this question: if a hawker selling vegetables on the street says that he has put the vegetables on the street because he is protesting against unreasonable enforcement by the FEHD, and he is protesting but not hawking; can he do so? Can the FEHD prosecute him for obstructing the street under food and environmental hygiene legislation? The enforcement officers had made a judgment on that day; he was obviously protesting, but he said that he was just holding an exhibition. Will it really be an exhibition if I say so?

About the last point, I asked the police on that day why friends from the Alliance could leave only after they had signed written statements of repentance. The police told me that those were not written statements of repentance and they had not asked those people to admit their fault; they had only asked them to sign declarations and admit that the material should be lawfully positioned. I asked the police if there were cases in the past in which people needed to sign a document before they were allowed to leave. The police told me that there had never been such cases. We asked the police for a copy of the document for reference by the Panel in order to find out what exactly the police had asked those people to sign. Yet, the police said that, as an investigation might have to be conducted, they could not give us a copy of the document.

We can see from the above points the meanings behind the so-called enforcement action on this occasion. The Secretaries assuming political accountability declined to attend the meeting, and there are so many questions. Mr CHEUK Wing-hing said that he had read the press reports, and I also asked him on that day if any person from the next higher rank had contacted him. He told me with curt assertiveness that no such person had contacted him. That was even worse, and it made us suspect even more whether the so-called politically neutral civil servants should try to guess the intention of their superiors or worry a lot about the June 4 incident.

I only wish to tell the department staff or accountability secretaries that I met a friend two days ago who was working on the Mainland. I asked him if he had taken part in the march, and he told me that he had specifically come back to Hong Kong to take part in the 4 June candlelight vigil precisely because of the

incident in which the two Goddess of Democracy statues were snatched. I would like to tell the Government that this incident has reached the bottomline of freedom of expression for Hong Kong people. Hong Kong people do not have substantive democracy, but we still have freedom of expression, and we cherish this core value a lot. I am not sure if we should thank CHEUK Wing-hing or the SAR Government for the fact that so many people had taken part in the 4 June candlelight vigil. Yet, if this incident has really reached the bottom line of freedom of expression for Hong Kong people, the Government will find Hong Kong people telling it callously that it can no longer do what it did. I think the Government should publicly account for the incident before Hong Kong people this time. Thank you, President.

MS EMILY LAU (in Cantonese): President, I speak in support of Mr CHEUNG Man-kwong's original motion and Mr Ronny TONG's amendment.

President, although we are not discussing the 4 June massacre in this motion debate, perhaps the same Honourable Members are also going to speak because some Honourable colleagues are really afraid of discussing issues that are related to the 4 June incident. President, this is good because it is better to be afraid of certain things than having no fear at all.

What the authorities concerned have done this time around has not only made the public highly concerned, the Amnesty International has even issued a declaration stating its grave concern about the freedom of expression in Hong Kong.

Not long ago, the Chief Executive said in this Council that there is a lot of freedom in Hong Kong, and there are 6.7 demonstrations each day — he should actually ask himself why so many people have to make an uproar — has our freedom of expression been fully realized despite so many demonstrations? President, Mr LEE Cheuk-yan is so indignant; if you put yourself in his shoes and are arrested several times, I believe you will also be very indignant. Also, was he arrested because he had breached the law and was it necessary to arrest him because he had done something really bad?

Mr LEE Cheuk-yan was arrested again last December around Christmas, right? He was arrested inside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region then, and he was

arrested on the street this time. However, as Mr LEE said just now, it is not right for a person to be arrested for smoking on the street. President, a person will not be arrested for smoking on the street, and he will only be arrested for smoking indoors. President, it would really be a major issue if a person were arrested for smoking on the street.

According to Mr LEE, the freedom of expression and the rule of law are dead. Of course, I respect Mr LEE highly and I will not express extreme views like him. Although this incident has exposed some serious problems, can it prove that the rule of law has died? Actually, not long ago when we discussed here the appointment of the new Chief Justice of the Court of Final Appeal, Honourable colleagues said that Hong Kong still enjoyed the rule of law and judicial independence, and they were not dead yet, President. I am not saying that the President is dead, and I am just saying that the rule of law has not yet died though it is really under immense pressure.

I agree very much with the remarks just made by Mr LEE about the law. He said that the law is used by the authorities concerned as a tool for arresting people and stopping all actions. I also agree that Mr LEE Cheuk-yan can sue the authorities concerned. If this case is brought to Court, President, it will definitely cause a great stir, and I assure you that it will be covered by a lot of international media. The Government arrested Mr LEE Cheuk-yan for the 4 June incident, and I wonder if Honourable colleagues still recall that Mr LEE Cheuk-yan attempted to enter Beijing years ago which caused a great stir around the world. Anyway, all incidents involving Mr LEE Cheuk-yan are extremely critical.

Why should the authorities concerned do so? When the authorities concerned arrested Mr LEE Cheuk-yan and more than 10 volunteers, they made people very frightened because these people had got into such a plight because they had just innocently done something that they had all along considered lawful throughout the years. I think the authorities concerned should handle this matter as soon as possible to show people that the incident should not have happened, nobody should be arrested, and similar incidents would not happen again in the future. I think this is the most important point.

LEE Cheuk-yan has also mentioned that the Director of the Food and Environmental Hygiene Department (FEHD) is idling away his time, thinking of ways to set him up. How can the Director be idling away his time? President, another member of the public was bitten by a mouse yesterday. As people have frequently been bitten by mice, there should be a lot of work for the FEHD. Is it really ridiculous that the Director fails to carry out the relevant work, just thinking of ways to set LEE Cheuk-yan up? I really do not understand why that is the case. The Hong Kong Alliance in Support of Patriotic Democratic Movements of China (the Alliance) would be wrong if things are just left on the street, blocking road traffic. However, all these completely peaceful, rational and non-violent activities not involving the use of foul language met with such treatment. I think the authorities concerned are really unreasonable.

The university has done the same and it is not sure how it is going to clear up the mess, and we are saying that some of us should be elected to become university council members. Those university council members should really reflect on our behalf that this incident has really gone over board. Just now, Mr CHEUNG Man-kwong has called upon the university, being the highest institution of higher education in pursuit of knowledge and the truth, to uphold the spirit of diversity and openness, and tolerate different views. Nevertheless, President, a lot of academics have already kept quiet out of fear. It is not only about whether they should express their views on whether the displaying of the Goddess of Democracy statue should be allowed. If the articles they have written or the views they expressed are not correct, they will more often than not be denied opportunities of promotion, and they will even fear losing their jobs.

So, I really do not understand what that particular university is doing. It often conferred honorary degrees on officials while other universities only conferred honorary degrees on distinguished personalities with noble sentiment, outstanding merits and achievements, who are highly respected and admired by the community. Honorary degrees should not be distributed like biscuits to any person based on his political status, and I think the university should review such a practice. What is the demerit of displaying the Goddess of Democracy statue? Was the Goddess of Democracy statue not also displayed in the University of Hong Kong? Some have suggested that each and every university should display a Goddess of Democracy statue. Should each and every university do so in the future, will opposition have to be raised year after year? Will there be a

hubbub year after year? Will Hong Kong make international news headlines year after year?

I really hope the university will understand that society has put a lot of resources on education — perhaps some may consider those resources inadequate and think that additional resources should be allocated; I agree — therefore, it should respect the freedom of expression. If we are really going to hold hearings and academics are invited to share with us the pressure on them, and how they have been prohibited from expressing their views, I believe the truth will be most shocking. President, they very often only express their views in private and they will never discuss such matters in public because their future will be subjected to immense pressure once they publicly express such views.

Lastly, I would like to tell the Government, the university and all Hong Kong people this line, and I believe the President must have heard the saying of the English writer, Evelyn Beatrice HALL, in the 19th century: "I disapprove of what you say, but I will defend to the death your right to say it". Sometimes, we in Hong Kong lack this spirit, and instead: I will not allow you to say what I disagree, and you are only allowed to say what I agree. President, how can this be democracy? How can this be freedom of expression? Thus, I hope that all Hong Kong people will have the breath of mind to uphold the freedom of expression for all (including those who say something that others disagree).

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

MS AUDREY EU (in Cantonese): President, we actually discussed similar topics when this Council debated the motion on vindicating 4 June not long ago. I expressed my views on that day and I will try not to repeat today most of the points I already made.

President, I think that the Secretary for Justice rather than the accountability secretary from the Home Affairs Bureau should attend the meeting today. I mentioned at our last motion debate that the incident was related to the rule of law in Hong Kong. In fact, it is really a pity that we have not heard the Secretary for Justice state his position on the incident to date.

President, from the whole incident, we can see the difference of ruling Hong Kong according to the law and the rule of law. If Honourable colleagues have ever noticed it, they will find the expression "ruling Hong Kong according to the law" instead of "the rule of law" is used very often on the Mainland. What is the difference? The difference lies in applying the letter of the law according to the literal interpretation of the law. On this occasion, the authorities concerned have cited the Places of Public Entertainment Ordinance to claim that someone has displayed certain materials without a licence — this is a typical example of invoking the wordings in the Ordinance to do something that should not be done under it. Under "the rule of law", the words "letter of the law" or the Ordinance should not be used, and the spirit of the rule of law should really be complied with to protect the interests of the minority, human rights and freedom, especially the freedom of expression insofar as this issue is concerned.

However, when we see the authorities concerned forcibly snatch the statues of the Goddess of Democracy this time as LEE Cheuk-yan said, we must ask why the authorities concerned arrested LEE Cheuk-yan — I am not saying that he is outstanding — and other volunteers for no reason. It was utterly unnecessary for the authorities concerned to do so. Nevertheless, since the authorities concerned wanted to forcibly snatch something that they basically did not have to and they were stopped by these people, they said that these people obstructed the police in the course of their duty and they were therefore arrested. They were making use of the law to carry out suppressive actions.

Secondly, why was there no problem with the statue of the Goddess of Democracy being displayed for many years in the past while the incident happened this year for no reason? It was obviously a mourning activity, why did the authorities concerned require that a licence be applied for under the Places of Public Entertainment Ordinance? As I already mentioned last time, I had gone through the entire Places of Public Entertainment Ordinance and wondered what exactly was regulated under it. It regulates the seating in cinemas or the failure of tents erected to comply with safety codes, or the display of dangerous chemicals. All these involve public safety but not the display of the statues of the Goddess of Democracy. Furthermore, as the same thing has been done for many years since the reunification, I cannot make head or tail of it. Of course, this runs counter to the spirit of the rule of law.

Apart from arresting people and detaining the statues of the Goddess of Democracy, the third point against the spirit of the rule of law is that these people were required to make written statements of repentance. When LEE Cheuk-yan and a group of people from the Alliance wanted to take back the statues of the Goddess of Democracy, the police required them to make written statements of repentance and admit that they had violated the Ordinance, otherwise, they would not be allowed to take back the statues of the Goddess of Democracy. In this connection, the Bar Association issued a statement after the incident, indicating that what the authorities concerned had done violated the spirit of the rule of law. On this issue, there was no reason for the authorities concerned to return the statues of the Goddess of Democracy only after those people had signed written statements of repentance. If the authorities concerned considered that they had breached the law, they should prosecute them, right? It was unreasonable for the authorities concerned to force them to sign written statements of repentance. I heard that such things would happen on the Mainland, that is, a person was required to sign a written statement of repentance before he was released. Why has this also happened in Hong Kong today? For this reason, the Bar Association considered that it is a very serious problem. I have really not heard the Secretary for Justice give any explanation or say that this is not right and against the rule of law. The authorities concerned should not do so, and the Secretary should come forward and say something in fairness to these people. Yet, he has not done that. President, I am once again making these points, and calling on the Secretary for Justice to come forward and say something in fairness to the rule of law in Hong Kong.

President, the same happened in respect of immigration cases. Whenever the SAR Government refuses entry of some people to Hong Kong under the Immigration Ordinance, the Secretary for Justice tells us that he will not comment on individual cases. But this is evidently a means of political suppression. CHEN Weiming is mentioned in the original motion, but we have actually observed that the sculptor Jens GALSCHIOT who created the Pillar of Shame sculpture has been denied entry year after year.

President, about this point, I would like to mention in passing the situation in universities. We know that Prof Johannes CHAN, Dean of the Faculty of Law of the University of Hong Kong (HKU), was denied entry to Macao on two occasions. President, the SAR Government or the HKU should state their

positions on the matter. They should come forward and say "Is there anything wrong?" He obviously was not going there for any political activities, and he was just going there to lecture. Furthermore, he was invited to lecture there by the Macao authorities, yet, he was refused entry for no reason. In this connection, we hope that the SAR Government can hold discussions with the Macao Government or the relevant Mainland departments. We should not see such things happen in Hong Kong, and I also hope that someone from the HKU would come forward and say something in fairness to the professor.

President, many people have asked if Hong Kong has become more radical and whether there are a lot of demonstrations. When the Government cannot safeguard the rule of law, and the public think that they need to come forward and speak out, it really needs to do some soul-searching and think about why some actions taken by the public have been regarded as particularly radical. It is precisely because the public think that the Government is unfair and fails to enforce the law.

President, the Civic Party strongly supports the original motion and Mr Ronny TONG's amendment, and we also hope that the SAR Government and the universities can show us that they uphold the spirit of the rule of law and fairness when they handle these matters, and we also hope that they will make some gestures to demonstrate this.

Thank you, President.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, freedom is certainly precious, right? Ms Emily LAU has just cited the saying of an English literary giant or celebrity. In fact, history tells us that all these sayings are useless.

The freedom of my people's radio has tragically been deprived. The Government has degenerated to applying for an injunction, to stop people from exercising freedom, and arresting these people in accordance with criminal law. So, the Court was involved, certainly, thanks to the significant contribution made by Mr WONG Yan-lung after he became the Secretary for Justice. But, most

unfortunately, the Court also ruled that he was wrong. Yet, he has not apologized and he continues to come here smiling broadly and shouting "Act now!".

What is freedom? Freedom should not be unreasonably restricted. My mode of expression not only the medium of expression I have just used some common sayings in making criticisms here of political issues, but it is said that I am using unparliamentary language. Does this Council have the ability to determine whether those expressions are right or wrong? Can this Council override the development of civilization? Before this Council comes into being, the civilization of mankind

PRESIDENT (in Cantonese): Mr LEUNG, are you questioning some rulings that I made in this Council in the past?

MR LEUNG KWOK-HUNG (in Cantonese): Yes, I am certainly questioning you.

PRESIDENT (in Cantonese): Mr LEUNG, please do not comment here on the rulings made by me? Please speak on the present subject.

MR LEUNG KWOK-HUNG (in Cantonese): Yes. The Vatican ruled years ago that GALILEO was wrong, and he was forced to admit his fault. Do you want to go back to the time of the Vatican hundreds of years ago? I am just teaching you a common sense lesson; the organizations on earth can definitely not override the essence of the civilization of mankind. You can listen if you understand it, but if you fail to understand it, you can kick me out now. This is a place for debates, and I have never heard that a place but, well, frankly speaking, you are the principal, and you are in a better position because principals can accept students' refuting.

In any case, the media and modes of expression have been prohibited, which reminds me of an event that happened to me recently. To a person who has already made a name for himself in the hall of fame, I

MR WONG YUK-MAN (in Cantonese): I have been disrespectful.

MR LEUNG KWOK-HUNG (in Cantonese): disrespectful, wow! Attending a meeting here is just like attending a meeting held in Lushan; President, you should know what the Lushan meeting was about. There were anti-leftist feelings before the Lushan meeting, but some had gone too far. When the reputation and dignity of MAO Zedong suddenly suffered a great deal — he wrote a six words poem for his comrade-in-arms in which he exclaimed "Mighty General PENG!", and praised PENG for being so good at fighting — PENG Dehuai contradicted him later on; he said that the Chairman might be wrong and he also referred to his satellite fields, thus, the meeting became anti-rightist. Not giving a thought to the welfare of Chinese people, PENG Dehuai submitted a 10 000 words memorial to the higher authority just because the authority of the Chairman had been challenged; that was a major issue. Of course, PENG Dehuai's 10 000 words memorial submitted to the higher authority had a far higher standard than the remarks I made, and I am just using an analogy to say something in fairness. It is an analogy, not an analysis, right?

At a meeting the other day, some Honourable colleagues from certain parties and groupings suddenly said that they opposed Long Hair's being disrespectful to someone. Was that not an infringed copy of the Lushan meeting? After that, no one discussed the Democratic Party's betrayal of Hong Kong people; and harsh criticisms were made (even in the mass media) of a person having made a mistake and being disrespectful to a person revered as god. As a result of the Lushan meeting, PENG Dehuai was thrown into a hell of 18 levels after the conclusion of the meeting, and he died during the Cultural Revolution uncleared of a false charge. At the Lushan meeting, PENG Dehuai was rebuked for being a member of the group which opposed the party. I am in a similar situation now, but I have just been disrespectful to a person revered as god. Other people such as WONG Yuk-man and Albert CHAN belong to the group against the party, just like ZHOU Xiaozhou and HUANG Kecheng; all of them opposed Chairman MAO. Today, we are discussing the freedom of expression in this Chamber, but it is really funny (I have not read a lot of books) that the situation here really reminds me of the Lushan meeting.

It also reminds me of another Lushan meeting, that is, the Second Plenum of the Ninth Communist Party of China (CPC) Central Committee, at which

MAO Zedong and LIN Biao argued about whether there was any genius. Later on, LIN Biao was removed from office and CHEN Boda was sentenced to 18 years' imprisonment. I read the memoirs of CHEN Boda not long ago, in which he said he would not ask for vindication because there were so many people imprisoned because of unjust verdicts in the past.

President, you have had the experience, and you may still be a communist today. Those were the two cases associated with the communist party in which people were imprisoned because of unjust verdicts. As it turns out, when someone is offended and certain taboos have been broken, everyone would get together and attack him. As a metaphor in the West goes, this is "to pick up the sesame seeds but overlook the watermelons".

Concerning the freedom of expression, if a person's freedom is restricted so that he cannot express his views in certain media or manners, he must have been bullied for being foolish.

I originally had not much to say today and I would only like to say some random thoughts. I am wondering if those of us who discuss the freedom of expression here today really understand what the freedom of expression is all about. I do not quite agree with Lord ACTON who was a conservative, but he had given a most insightful exposition on the freedom of expression. According to him, "liberty is the prevention of control by others. This requires self-control". Who in this world can tell others what should or should not be said, and who can or cannot be offended? Honourable colleagues' attack of me and exposure of my past misdeeds on 24 June was clear evidence.

President, I hope the SAR Government would not forcibly snatch the statues, and I also hope that it would allow better utilization of atmospheric airwaves. It should not dwell on its harmony argument, and it should not say that the opposition camp were good fowls that had chosen the trees on which they would perch — what was he talking about? Stephen LAM has exactly chosen to perch on a rotten tree; he is loyal to a regime that is on the verge of collapse (*The buzzer sounded*)

PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up.

MR LEUNG KWOK-HUNG (in Cantonese): He is just like LIN Biao and CHEN Boda

PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up.

MR LEUNG KWOK-HUNG (in Cantonese): Thank you for your indulgence, President. Do you understand what you just heard? (*Mr WONG Yuk-man laughed*) Do you understand what you just heard?

PRESIDENT (in Cantonese): Please sit down, your speaking time is up.

MR LEUNG KWOK-HUNG (in Cantonese): the Second Plenum of the Ninth

PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up, please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): As a communist, you

PRESIDENT (in Cantonese): Mr LEUNG, you used the Chinese word "攻訐" a few times when you recently spoke. If the Chinese character concerned is composed of the radical "言" and the component "干", it should be pronounced as "竭" but not "奸".

MR LEUNG KWOK-HUNG (in Cantonese): Sorry, President, I pronounced the word wrongly. But I would like to ask if you know these two historical incidents well.

PRESIDENT (in Cantonese): Does any other Member

(Mr LEUNG Kwok-hung remained standing)

PRESIDENT (in Cantonese): Mr LEUNG, you have used up your speaking time.

MR LEUNG KWOK-HUNG (in Cantonese): Do you know the historical incidents of the Lushan meeting and the Second Plenum of the Ninth CPC Central Committee?

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. Does any other Member wish to speak?

MR ALBERT CHAN (in Cantonese): President, talking about the freedom of expression, we certainly have to realize and understand how valuable freedom is. Freedom cannot be optional, and we cannot have the freedom of expression when we criticize others while the freedom of the others is restricted when they criticize us. Such hegemonistic freedom is not genuine freedom of expression. Antonio GRAMSCI was a scholar famous for his criticisms of communism and cultural critique and he was also a political figure in China. He has stated explicitly in his writings that, insofar as culture and values are concerned, there is basically hegemonistic manipulation in the present capitalistic society under the control of the state machine. A group with power and influence controls the media, the mainstream culture, and the status of Confucian orthodoxy. Culture and many moral standards in society have basically been subjected to hegemonistic manipulation. Taking the incident concerning the Goddess of Democracy statues as an example, it clearly exposed the fact that, in places under the control of major developers, if the materials displayed may affect their interests, the Government will restrict people's freedom of expression and their freedom of displaying materials for the sake of defending the interests of major developers.

Similarly, in this Chamber where political parties with a larger number of members chide others for saying something that is not agreeable, we cannot

debate issues using foul language; this is also hegemony. When the minority is deprived of their rights why have the youth and many ordinary people used language relatively vulgar? Because they have neither power nor influence. Ordinary people have neither power nor influence, unlike those large consortia that can call some senior officials up and drop some hints the government machine — that is, 160 000 civil servants are serving those with power and influence. When ordinary people, especially young people, fail in finding jobs or have been betrayed by those public opinion representatives, the Government will not listen to what they say. So, they can only express through websites or other channels their views on certain political parties or certain Honourable Members who have betrayed people's interests, or their dissatisfaction towards officials. That is the freedom of expression.

After so many years, I still remember well the time when I was a sophomore of a university in Canada in 1976 — many years have really passed in an instant — I took Human Rights and Civic Liberties and my professor was Polish. During class, the professor criticized the Government using words that started with the letter "f". I would like to tell Honourable colleagues that even a university professor would frequently use foul language when he was lecturing on human rights and freedom. The Watergate incident happened years ago, and President NIXON — according to the records of the White House, always used words that started with the letter "f" when he criticized certain people. Not long ago when President OBAMA advocated the passage of the health reform bill, the Vice President forgot to turn off the microphone when he was having a private conversation with the person sitting next to him, and we also heard him use foul language, right? I would like to take a look at the language used by MAO Zedong or DENG Xiaoping during meetings (that is, the CPC's meetings in Yan'an or Zhongnanhai); I believe there were quite a number of vulgar expressions. Therefore, given the freedom of expression, we cannot refuse to have debates with someone just because the expressions he use are not agreeable as we will deprive him of the freedom of expression in certain areas. I find it most funny and contradictory for some political parties to propose this motion in this Chamber today.

President, in discussing the freedom of expression, we must respect the subculture characteristics of various communities. Each community or group has its own cultural background, development process and values, right? Please refer to the debates on the classical Chinese literary movement and the New

Culture Movement years ago, and one will find the situation was pretty much the same. When HU Shizhi promoted writings in the vernacular at that time, he was criticized by the so-called Confucian orthodoxy scholars as devoid of any merit. The Democratic Party is now similarly criticizing the young people, and there is a similarity between the two cases. At the time, some people directly criticized HU Shizhi for promoting the new culture Vernacular Movement, and they said that HU Shizhi was a beast without any concept of the five human relationships, and they even regarded him as a lump of dung.

To those who upheld ancient Chinese prose, people like HU Shizhi who promoted the New Culture Movement years ago were just like a lump of dung, and they criticized that HU Shizhi was a beast without any concept of the five human relationships. Stephen LAM similarly criticized that those from the democratic camp or grouping who submitted to circumstances were beasts, right? He said that they were good fowls that had chosen the trees on which they would perch. In other words, even beasts know how to choose and good fowls are also beasts, right? In other words, there was a group of beasts but not men. So, what he said was actually most insulting. Our big brother was smart enough to rise and say that he was gaining extra advantage at other people's expense. In fact, I should have told the President that what he said was insulting. Yet, he was not pinpointing the three of us from the League of Social Democrats (LSD), and he was just saying that those from the democratic camp were not human beings but a group of beasts. What he said was basically very offensive.

President, insofar as the freedom of expression is concerned, I think Hong Kong really lack this kind of freedom because we basically have a totalitarian regime which controls the mainstream culture. Hence, our society will definitely be filled with oppression and suppression.

MR WONG YUK-MAN (in Cantonese): President, it is righteous that we should talk about verbal violence. But let me first set the record straight for Albert CHAN. Among the three Legislative Council Members of the LSD, he is the one who dislikes foul language most and also, the most gentlemanly. He is a quail when he sees his wife, and with several female members in his family, he never swears. The one who swears most is "Long Hair", but even he does not use foul language to attack others, OK? That is it.

President, the three Legislative Council Members of the LSD can but support the motion debate sponsored by Mr CHEUNG Man-kwong on "Safeguarding Hong Kong people's freedom of expression". However, the Government's seizure of the Goddess of Democracy statues on the eve of the 4 June incident has suppressed the freedom of Hong Kong people to commemorate the 4 June massacre. Public opinions have denounced these violent acts of political suppression unanimously and it is all very clear who is right and who is wrong. On that day, right after LEE Cheuk-yan and LEUNG Kwok-wah, respectively Chairman and Standing Committee Member of the Alliance, were arrested, the LSD rushed to the scene to show our support, and rally supporters to siege the North Point Police Station. Our actions finally succeeded in forcing the return of the Goddess of Democracy statues by the Government. After the incident, I suggested at the Panel on Food Safety and Environmental Hygiene that government officials should be summoned to attend our meeting to answer our questions on their wrongdoings.

Hong Kong people have to defend their own freedom of expression with their own actions, believing in the power of the people. Talking about the issue in this Chamber is not enough. Speaking about the freedom of expression, I wish to talk about the situation at City Forum last Sunday. Both Ms Emily LAU of the Democratic Party and Dr Helena WONG of the Alliance for Universal Suffrage attended the programme for a discussion on "Passing of Political Reform Package". However, one lady repeatedly asked people not to use foul language and the other claimed that they were suffering from paternalism. But they effectively blurred the focus of discussion and repeatedly labelled the floor speakers as using foul language, perpetuating verbal violence and using violence to target the Democratic Party, and so on.

Buddy, it is human nature when the people have no way to vent their spleen to lash out at the Democratic Party with a few harsh words. But these persons responded with even louder and harsher words. So what is really verbal violence? Well, there has never been a clear definition. The expression "verbal violence" *per se* is worth pondering. Is somebody speaking in a loud voice or using coarse language perpetuating wrongful verbal violence? Although people with neither power nor authority may speak without decorum, why is it wrong if they have no intention of hurting people and are just using

strong language to voice their dissatisfaction? Is that not natural that people should talk about how they feel?

Having crossed swords with the two ladies at City Forum, Fred LAM, Executive Director of Roundtable Community, published an article the next day. A paragraph reads like this: "Of course, personal attacks should not be encouraged. But in the past, protests opposing the Express Rail Link and the political reform, which are non-violent and non-abusive in nature, were labelled as extreme and violent so as to divert attention from the real violence that affects our legislature." Is voting by the functional constituencies not a form of violence? Is darkroom politics not a form of violence? An egg throws itself against a high wall and shatters into a thousand pieces. Yet it is blamed for tarnishing the high wall. Is that not power that breeds violence?

From a sociological point of view, a more stringent test of verbal violence is whether the speaker of an expression has power and whether he has the strength to overpower and subdue others. In other words, although some of you may not normally speak in a coarse manner, just like your Secretary who sometimes speaks in a soft voice and a smiling face and yet, the meaning behind his expression is very clear, which is a threat with power. How dared him ridicule the Civic Party the other day for not being a good fowl that chose the tree it perched? Although I was upstairs having my meal then, I came down immediately to scold him when I heard him say something like that. What he said had insulted three political parties: the Civic Party, the LSD and the Democratic Party. The Democratic Party is of course the "fowl", they are the "pigeons", right? As the saying goes: "A good fowl chooses the tree it perches on; and a virtuous minister the master he serves". Those who have read the novel Romance of the Three Kingdoms will know that an example of a virtuous minister choosing the master he served was LU Bu's decision to follow DONG Zhou.

Another story from the same novel is about MAN Chong lobbying XU Huang to join CAO's camp and MAN also started his lobbying with the expression, "A good fowl chooses the tree it perches on; and a wise minister the master he serves." What was the Secretary saying really? What sort of master-servant relationship we have with him? We are most Buddy, you know Audrey EU is leading us now and she is the master general. What is meant by "a wise minister chooses the master he serves"? He was really talking nonsense. You are sitting here today and I do not want you to take his blame.

Has that man received any education? He just talked suave and sly and this illustrated the arrogance of power. I am so intense on scolding that man that I have sidetracked from the main issue. That is the arrogance of power, right? He was dividing the society and tearing apart groupings in society. What he said was not good for the pro-establishment camp either because he was effectively saying that these boot lickers had converted a long time ago, some had just converted and some knew not to convert but follow the "beggar gang". This can only be described as the most despicable. If he were here now, he would probably say I had offended him and seek a ruling from the President.

Also, we are born hard nuts, so we will maintain our stance on the fight for dual universal suffrage in 2012 unflinchingly. But when people question us, we would rebuke loudly and viciously. Is that also some sort of verbal violence?

Ladies and gentlemen, many things in this world cannot be pitched against any benchmark. Now I am speaking in a loud voice, but how violent can that be? Are you not happily listening to what I am saying? At least, I have taught you the saying "A good fowl chooses the tree it perches on", and the next line is "a virtuous minister the master he serves". I sometimes think it would be inhuman not to get upset at hearing something like this. What more can I say about the freedom of speech really? Alas! Those who say they value the freedom of speech should also reflect on themselves

MR LEUNG KWOK-HUNG (in Cantonese): I want Mr WONG Yuk-man to clarify what he said about DONG Zhou. Is he hinting that the eventual fate of the SAR Government would be like that of DONG Zhou?

MR WONG YUK-MAN (in Cantonese): There was another Mr TUNG, no *(Laughter)*

MR LEUNG KWOK-HUNG (in Cantonese): He is offending the SAR Government.

MR WONG YUK-MAN (in Cantonese): My speaking time will be up soon.

PRESIDENT (in Cantonese): Mr LEUNG, you speaking time is up. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): The eventual fate of DONG Zhou was tragic

PRESIDENT (in Cantonese): Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): his body was cut open

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. Mr WONG, please continue with your speech.

MR WONG YUK-MAN (in Cantonese): In 1930, Mr YAN Fu translated the book "On Freedom" by John Stuart MILL. At that time, Mr YAN had fled to Tianjin after the Wuxu Coup. Persecution by the Qing Dynasty had stripped him of the freedom of speech, and Mr YAN Fu was motivated to translate this classic English work on liberalism. There are now many different versions of Chinese texts and you should buy one and read it during your leisure, OK? Mr YAN had said something that really worth our reflection: "If something is a fact and true, you should never ignore it even though it comes from your enemy; if something is a lie and false, you should never follow it even though it comes from your ruler." Democracy should be founded on rational critique and we should neither reject an opinion because of the speaker nor create lies with the ruler. I wonder why those who have clearly stated support for implementing dual universal suffrage in 2010 can now turn against their election pledges while still speaking in a loud and vicious manner.

Thank you, President.

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

MS CYD HO (in Cantonese): President, only totalitarian governments will always make interference with the freedom of speech their priority task because they are most afraid of criticisms and of their lies being exposed by free speech. Government officials love to lie here with their high-sounding and elegant speeches under the protection of the Rules of Procedure. However, when they are out in the streets, they cannot escape from the discerning eyes of the people. And hence, they oppress the people out in the streets.

President, this incident is clearly an act of political oppression. In the past, the Court had already ruled against the Government invoking such municipal services legislation as the ground for confiscating protest articles from Falun Gong practitioners outside the Liaison Office of the Central People's Government. In this latest incident, the Government has again dug out a law on food and environment. In fact, other legislation such as the Summary Offences Ordinance can also be used by the Government. Some laws in Hong Kong were enacted in the 1930s and they are still in force. Therefore, if the Government tries to rule the people by law and suppress the freedom of speech, it has all the legal basis and powers available. That was why we said on the last occasion, "Why for a tyranny bother to apply the law"? Because the Government has the "machine", the legal provisions, the prison and the law-enforcement agencies (such as the police and staff of the Food and Environmental Hygiene Department) and so, it is absolutely feasible. However, the Government can never convince the people of Hong Kong totally and it will only become more and more afraid of facing the people.

A university should be a place where the freedom of speech and thought flourishes most. Students who have the courage to challenge the constraint of doctrines and the reality would have the motivation to create knowledge. If Hong Kong really cherishes our education system and our young people, we should exert our utmost to safeguard the freedoms of thought, of speech and of expression on campus.

President, you have also tried to put up slogans and banners in the University of Hong Kong (HKU) back in 1967 and I heard that you had done the dangerous act of climbing to a height. However, you still managed to graduate. In other words, the University had not punished you or barred you from graduation. Hong Kong's student movements are in fact closely related to the fate of our nation and our country. In 1989, CHEUNG Yui-fai, a Swirian at the HKU, wrote a banner on the campus and it was as long as a roll of cloth. As there was no table long enough to hold that piece of cloth, he put it on the ground and wrote his slogan on the Swire Bridge. The slogan very much worths remembering: "The cold-blooded massacre of the City cannot wipe out the eternal spirit of the martyrs; and we vow to perish the wolves to let the sparks of democracy live on." As the cloth was too thin, the paint impressed on the Swire Bridge. Ever since, the HKU Students' Union (HKUSU) would repaint the Swire Bridge Slogan every year. Once, the University refused to let the students repaint the slogan, but it finally backed off due to the overwhelming support from the community at large and its alumni. The annual repainting of the Swire Bridge Slogan has now become a ritual of remembrance by the HKU students of the country's patriotic democratic movement.

In 1997, the HKUSU requested that the Pillar of Shame be moved into the HKU campus. Some scuffles had occurred and the law-enforcement agencies as well the security officers even snatched away the key of the lorry. Finally, under escort by the students, the Pillar of Shame was moved to the campus of The Chinese University of Hong Kong (CUHK). This year, CUHK has turned down the students' request to erect the Goddess of Democracy statue (the Statue) on the campus on the ground of maintaining political neutrality. What do they mean by political neutrality? The Vice-Chancellor and President of CUHK, Prof Lawrence LAU, himself is a Member of the Executive Council as well as a Member of the National Committee of the Chinese People's Political Consultative Conference. While he has his own political inclinations, he tries to suppress the freedom of speech and thought of the students on the pretext of political neutrality. This is sublime hypocrisy. Even though today is the last day of Prof LAU's tenure as the Vice-Chancellor and President of CUHK, I have to deplore his hypocrisy and double standard.

The students' actions are most gratifying. They have promised the alumni that the fate of the Statue would be decided through direct democracy, and that is,

by a so-called referendum — the one word you people dislike most — which is by far the fairest solution.

How deplorable the double standard is? First, the University requested the students to bear the responsibility of safety. The students had to put in place safety measures to prevent any safety risks to passers-by should the Statue fall down. But we all know that the weather has been quite bad recently with frequent downpours. When the students tried to implement some safety measures, the University refused to let them dig any holes in the ground. This is what the double standard is about, the use of authority to suppress others.

President, CUHK has always been concerned about the country and the people. In the early days, New Asia College (the oldest of the three original constituent colleges of CUHK) was taught by famous professors such as TANG Junyi, MOU Zongsan and XU Fuguan. They were all philosophers concerned about the country and the people. There is no denying that CUHK is concerned about politics and it will never be politically neutral. It is the hope of CUHK to have a cultured society where the people are concerned about the country and the nation. Nonetheless, many people have commented on the Internet that government officials just do not understand these things. Sometimes, when we talk to them, it is just I am saying these things to the people outside this Chamber. President, it is sometimes really very difficult put messages across to the government officials on these things.

Some have expressed the worry that if the Statue is allowed to be erected in CUHK, the students may request the placement of more statues, such as the statues of Dr SUN Yat-sen, MAO Zedong or even Donald TSANG. What should be done then? But how big a deal can it be? Referendums would be held then to allow the students to decide for themselves in a democratic way. As regards whether a statue erected on the campus would be revered as that of YUE Fei ("岳飛") or despised as that of QIN Hui ("秦檜"), it would depend on his deeds in the past.

Generations of talents will come and go and it is natural that old talents would be replaced by new ones in the political scene. When we have been politicians for far too long, and when principles and ideals are eroded by the so-called political reality such that we are forced to change, to concede and to compromise, we must all the more uphold the freedom of thought and speech on

the campuses so as to allow our new generation to develop freely in their new direction. Thank you, President.

MR IP KWOK-HIM (in Cantonese): President, many academic institutions have conducted tracking surveys on how satisfied Hong Kong people are in respect of various freedoms they enjoy. The findings of each survey invariably show that Hong Kong people are quite satisfied with the freedoms they enjoy. It is evident that the freedom of Hong Kong has not shown any signs of diminishing. The political views of the people of Hong Kong, no matter how divergent they are, have always been respected since the reunification. Irrespective of whether the activities are 1 July marches, 4 June candle night vigils or other events such as processions or meetings organized for specific political issues, the SAR Government would always try to make all sorts of complementary arrangements. Of course, before making these arrangements, the Government must ascertain whether the event is sensible, reasonable and lawful. In the first place, the organizer must abide by the law, give due consideration to public safety and consider whether the event will create inconveniences to other people.

Regarding the seizure of the sculpture as mentioned in the motion, we think that if the organizer wanted to display a large sculpture in the public area outside Times Square, it should apply for permission in this regard from the Government or from the responsible authority under the law. When the Food and Environmental Hygiene Department (FEHD) learnt that the exhibit had not been granted any permit, they then requested its removal by the concerned persons. The enforcement actions were all lawful, reasonable and justifiable. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers it appropriate for the Government to make the protection of the personal safety of other passers-by in the said public area its primary consideration.

Today's motion is about "Safeguarding Hong Kong people's freedom of expression". In order to safeguard the right of free expression, it would be most important to respect the rule of law. While the Government should enforce the law according to legal procedures, the people including Members of the Legislative Council must also abide by the law. Actions taken by the FEHD and the police in accordance with law are intended to uphold the rule of law, and hence,

MR LEUNG KWOK-HUNG (in Cantonese): President.

MR IP KWOK-HIM (in Cantonese): we consider them appropriate. On the contrary,

PRESIDENT (in Cantonese): Mr LEUNG, please sit down first. Mr IP, Mr LEUNG has requested an elucidation by you. Are you prepared to give way?

MR IP KWOK-HIM (in Cantonese): No, because he always interrupts my speeches.

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. Mr IP, please continue.

MR LEUNG KWOK-HUNG (in Cantonese): The Government does not need to abide by the constitution.

MR IP KWOK-HIM (in Cantonese): On the contrary, if after the seizure, someone threatened or intimidated the police for return of the seized articles or else they would rally members of the public to block the police station, I think it is not something The way they speak and act is not appropriate.

In a civilized and open society, there should be tolerance of the opinions of other people and respect for different stands. However, something has happened in Hong Kong recently and repeatedly, much to our regret. We can see that in some open forums, floor audiences have time and time again resorted to verbal violence or even physical violence to abuse or attack the guests or the speakers. Notwithstanding the different opinions and stances we have, everyone should have the freedom and the opportunity to fully express themselves. The freedom of expression enjoyed by the people of Hong Kong nowadays does not come by

easily. I think the people of Hong Kong should cherish and safeguard this freedom. I personally find it hard to understand why some people can say that they value the freedom of expression while in deed, they are going the other way and limit other people's freedom of expression? Is freedom to be enjoyed by themselves alone? I believe this is not a healthy trend in society, and I think it is not something that the community at large would either like to see or endorse.

The day before yesterday, solicitor LAM Ping-cheung was released after the Court of Final Appeal (CFA) had quashed his conviction. There are points worth pondering in the CFA judgment for it reiterates that "just objectives" must accommodate the demands of "just procedure". The fight for democracy is of course a "just objective", but if rules are openly flaunted in the process resulting in words and deed that contravene the law, can these be still regarded as a "just procedure"? I believe the general public who love Hong Kong would hope that while people fighting for democracy embark on their course, they should or must also respect the rule of law and abide by the laws. Just as the CFA puts it, "just objectives" must not override "just procedure".

President, I so submit.

MR FREDERICK FUNG (in Cantonese): President, it will be the day of the 1 July march tomorrow. The 1 July march signifies the aspiration of Hong Kong people for democracy and freedom as well as their desire for universal suffrage. Any attempt to suppress the march are futile and extremely foolish because it will just serve to spur more and more people to take to the streets. Any petty moves intending to play down the need of the procession or intimidate the participants will have counter effect and push more people to join in the march to defend our due rights and freedoms with actions.

In the road to democracy, we have walked through the valley of the shadow of death with many thorn bushes. Today, we are still here side by side and stand united in our arduous fight for real universal suffrage and the abolition of the functional constituencies (FCs). Our goal today is still the same, and it points to the ultimate implementation of universal suffrage elections. Nonetheless, we may have adopted different strategies and means. As the saying goes, "The sea

is great because it can accept all rivers, and a person is great because he can accept all others." In future, we should continue our steadfast and wholehearted fight for political reform with tolerance and respect which are the essential elements of democracy.

President, the 1 July march belongs to all the people of Hong Kong. It belongs to each and every one of us who craves for democracy and universal suffrage. The democratic camp holds no franchise on the march, nor do the organizers. What we should do is to act with a clear and selfless conscience so that we can unite the majority public to fight for universal suffrage. Through the march, we can display the power of public opinion and put pressure on those in authority. We should ignore and set aside the so-called struggle between different lines of the democratic camp or the so-called ploy of individual parties and factions for private gains.

However, the name-calling, vilifications and exclusion within the democratic camp now will simply weaken the democratic forces and intensify internal strife. As a result, the existing division will deteriorate, making our supporters disoriented and hesitant in going forward on the road to democracy. It will only serve the interest of those in power who want to split the democratic camp and destroy the pro-democracy forces. There is really no need for those in power to apply any pressure nor make any petty moves. Brothers in the democratic camp have already turned against each other, tearing down the castle of democracy even without outside attack and destroying the democratic forces themselves.

President, here I call on the people of Hong Kong to actively participate in tomorrow's procession in a steadfast and fearless manner, transcending the struggle between strategies and lines and transcending the interest of individual parties and factions. I urge them to stand on the genuine moral high ground of democracy and actively participate in tomorrow's procession in a peaceful, civilized, rational, respectful and tolerant manner that realizes the greatest principle of democracy. I urge the people of Hong Kong to show everyone their determination to fight for real universal suffrage, the abolition of FCs and social justice.

Various groupings and organizations in the democratic camp should also put down their biases and become united once again through the moral power of restoration and tolerance required of us democrats. We can then march forward towards the common goal of universal suffrage with the concerted efforts of the people and put the greatest pressure on those in power.

President, as I have just said, no actions by the authorities to suppress pro-democracy forces can achieve any results. History tells us that the greater the suppression the strong opposition. Dialled-up suppression will only induce more people to join the opposition. Not to mention that insofar as the 4 June Incident which is a matter of cardinal importance is concerned, the people of Hong Kong will never compromise and never back down. Earlier on, the authorities have tried all sorts of unreasonable acts of suppression to obstruct the staging of various events commemorating the 4 June Incident. They have resorted to selective enforcement and invoked the nondescript Places of Public Entertainment Ordinance to confiscate the Tiananmen Square Massacre relief sculpture and the Goddess of Democracy statues. But as predicted, instead of achieving the so-called positive impact desired by those in power, these actions only resulted in negative impact.

Thereafter, the authorities denied the entry of CHEN Weiming, the creator of the new Goddess of Democracy statue, to Hong Kong. Even more ridiculous is the decision of The Chinese University of Hong Kong — a pluralistic and open-minded university renowned for its emphasis on academic freedom and the freedom of thought, which is also my alma mata — to reject the request of its Student Union to permanently display the Goddess of Democracy statue on campus on grounds of political neutrality. This is really a baffling decision.

Undoubtedly, the series of incidents have caused worries about the freedom of speech and expression in Hong Kong being gradually restricted. As I have just said, unreasonable acts of suppression by the authorities will only incite more people to take action and safeguard our due rights and freedoms. The 4 June night vigil was attended by as many as 150 000 people and it shows that the authorities' conspiracy is useless and a failure.

Through the wind and rain of the past 21 years since 1989, we have never gone against our conscience, and we fear not the barbarous acts and petty moves

of those in power. We have neither compromised nor retreated. Year after year, we fill the Victoria Park with candlelight in our hands and tears streaming down our faces, mourning the dead souls at the Tiananmen Square. Apart from conveying our thoughts of remembrance and our determination to seek the truth, this also shows our determination to choose as well as hold on to what is good. This is how we persist in upholding the core values of Hong Kong people. We have never faltered in our belief that history will prove everything and justice will be done. The Tiananmen Square incident will be vindicated.

President, as long as the SAR Government is acting with evil intentions and tries to use some indirect or petty moves to suppress the freedom of speech and expression, the people will surely come forward for the just cause and stand up to refute, reject and repudiate those in power. Therefore, the Hong Kong Association for Democracy and People's Livelihood urges the Government to abandon its improper thoughts, stop any action to suppress the pro-democracy movement and go back onto the right track by shouldering its responsibility of safeguarding the people's right to exercise their freedom of speech and expression.

With these remarks, President, I support both the original motion and the amendment.

MR WONG SING-CHI (in Cantonese): President, Mr IP Kwok-him said just now that somebody had violated certain laws and procedures and had not acted in accordance with law, so he considered that his freedom had been impinged. If Mr IP is hinting that the display of the Goddess of Democracy statue (the statue) at Times Square is an act violating the law or the rules, I hope Members of the DAB can point out exactly what laws had been breached at that time and what permission had not been applied for, which resulted in the banning of the display of the statue at Times Square.

Now we all know that Times Square is a public space. But before we knew it, some consortia or persons had already organized events there for revenue. I do not know whether they had made any applications because they regarded Times Square as their own place. Also, it seems that the Government has never interfered with it before. But then, why would the display of the

statue by the Alliance to convey our remembrance of the 4 June Incident, our longing for democracy and our wish for vindication of the 4 June Incident by the Central Government be regarded as a breach of law and procedure, so much so that the whole Statue was taken away? What is all the fuss about anyway? Why did they use such a way to suppress a group of people fighting for their ideals or seeking the truth for the Chinese people? What laws have we violated? It is blatantly clear that the Government is using this as a means to suppress the freedom of speech.

In respect of violations of law, I can cite many examples to show that the Government has taken absolutely no action to deal with many unlawful acts. For example, if Mr LEE Wing-tat did not insist on investigating the case, would the Government follow up whether the developer of 39 Conduit Road had manipulated the market? Any astute soul can easily see that there is no way the property can fetch a price as high as \$70,000 per sq ft. However, the Government has done nothing and allows the whole thing to go on. Somebody may have already breached the law or certain rules, but the Government has not dealt with it.

The incident case of columbarium facilities has yet to be resolved. Those columbaria have entirely violated the lease conditions, and even the Architectural Services Department, the Buildings Department and the Lands Department have all said that the columbaria are illegal. However, they remain there and nothing is changed. But the Government has removed the statue. How laughable the whole thing is?

Regarding the kart track incident in Tuen Mun, the Home Affairs Department told us that the Government has been monitoring the kart track through a so-called international automobile association. When I asked further whether the Government had the authority to monitor the kart track, I learnt that the Government has completely no authority to monitor the operation of these kart tracks. The Government had turned a blind eye to the operation of these kart tracks and as a result, a fatal incident occurred. To date, the Government has still not interfered or dealt with anything. It merely says the kart track has ceased operation, full stop. What sort of problem is this?

And what about the Lehman Brothers Incident? To date, not a single bank has been prosecuted. Even though there are so many victims and so many people have lost all their savings, the Government still does nothing. We will never see the Government take actions in major incidents. But for minor incidents such as the display of the statue, the Government took immediate action to seize the statue in the first instance. Is this not an act of suppression of the freedom of speech? If it is not an act to suppress our fight to vindicate the 4 June Incident, what is that?

But Members of the DAB claim that somebody have breached the law and many regulations. I sincerely ask Members of the DAB to follow up the 39 Conduit Road incident, the columbaria incident, the kart track that violated the rules and the Lehman Brothers Incident, or even the rules about Internet cafes. I invite them to follow up these matters with us. If they do not, they should not blame others for breaching the law and then seize the statue. Therefore, it is very clear that freedom of expression is subject to frequent suppression in Hong Kong.

Some practitioners of Falun Gong once told me that they were originally sitting in a certain area, but then they were driven away. They have made complaints. An internationally renowned group called Shen Yun Performing Arts had originally planned to stage a performance in Hong Kong, but because of its relationship with Falun Gong, the group was refused entry to Hong Kong. If this is not suppression of the freedom of speech, what else is it? I have looked up a lot of information and learnt that Shen Yun Performing Arts have staged many excellent performances around the world with much acclaim. But Hong Kong has refused to let the group perform here. If this is not suppression of the freedom of speech, dare I ask what else it is?

President, I also want to talk about "vile language". I do not intend to "talk vile", I just want to talk about "vile language". Mr WONG Yuk-man's use of "vile language" is just human nature. Yes, I consider that many a times, it is just natural for human beings to vent their feelings. For example, if you watched the World Cup match where England's goal was dismissed by the umpire, you would naturally boo the umpire and swear. I do not consider it a problem because it is just a way to get the feelings out. However, if someone constantly talks vile to others with the intention of affecting what they say, then it is surely not just about getting one's feelings out. I know many triad members also resort to "vile language" to intimidate and subdue other people. If these

acts are not verbal violence, then what else is it? President, I do not want to see some Members of the Legislative Council encourage our young people like this: "It is alright to 'talk vile'. Apart from scolding others with 'vile language', we can also 'talk vile' to overpower others." I think we should not do such things. I am not saying that Mr WONG Yuk-man has this kind of thinking. But if we keep on thinking that "talking vile" is just a way to vent our feelings, it is simply not true. Sometimes, a person who "talks vile" can really overpower others with his speech and words so much so that the other party cannot say freely what they want.

Therefore, in our debates, we need to express our demands and thoughts in a cool and calm manner. We can also argue our case on different platforms. How can someone go to other people's front door to protest and rally or even disrupt their activities just because some powerless groups have stated their opinions? Recently, a Christian organization held an event called Global Day of Prayer. On that day, a group of people disrupted the event because the organization had previously worked with senior government officials. How can they do something like that? I absolutely disagree with that action of theirs. Also, a pastor once called on his congregation to cast blank votes in the referendum while preaching, but then a group of people went to the church to petition and protest with banners? Why did they do something like that? These organizations are all without power. They just want to get across their own messages through a platform they can reach. Why can some people do something like that? These are clearly examples of suppressing others' freedom of speech.

Therefore, President, I hope when we discuss this matter, we can see clearly what is the problem. If it is just about venting one's feelings, it is fine. But if someone really intends to use his speech (*The buzzer sounded*) to suppress other people's freedom of speech

PRESIDENT (in Cantonese): Mr WONG, speaking time is up.

MR WONG SING-CHI (in Cantonese): then such action will clearly violate the concepts of freedom and democracy. Thank you, President.

MR ANDREW CHENG (in Cantonese): President, I speak in support of the motion sponsored by Mr CHEUNG Man-kwong of the Democratic Party on "Safeguarding Hong Kong people's freedom of expression".

When we look at the Goddess of Democracy statue (the Statue) In fact, the Statue represents the pro-democracy aspiration and passion of tens of thousands of Hong Kong people. I have never thought that the Statue would be confiscated forcefully here in Hong Kong by the Government. I think this action has broken the hearts of many in Hong Kong. Hence I believe that is why there were tens of thousands of candlelight at the 4 June night vigil to register their dissatisfaction about the Government's action.

I have listened very carefully to Mr IP Kwok-him's speech just now. Regarding the several points he raised, I think no one (if taken out of their respective political stands) can say that he is wrong. Nobody wants to see violence.

However, I hope Mr IP Kwok-him will understand that from the 1967 riots to the LAM Bun incident and right up to the "elderly at the Victoria Park" with their use of foul language or even umbrellas — they love to do that, President — the elderly at the Victoria Park always have an umbrella around regardless of the weather. When it is not raining, they use the umbrella as a sun shade. That is why they always have an umbrella with them. Every time when Members of the democratic camp are driving away, they would bang our cars with umbrellas. Is this kind of behaviour an act of violence? Have Mr IP Kwok-him and colleagues from the DAB mentioned these problems? This just shows that our views are different politically and hence, our inclinations are different.

If anyone says the confiscation of the Statue is a justifiable, reasonable and lawful act, I am all the more saddened by it. Regarding what is "justifiable", many DAB members have, just like us, shed many tears for those compatriots who lost their lives at the Tiananmen Square on 4 June 1989. We just hope that the Statue we just hope that our compatriots and Motherland will soon have genuine democracy and freedom. On account of this sentiment alone, the Statue should not have been confiscated. As far as "reasonableness" is concerned, Mr WONG Sing-chi and other colleagues have clearly pointed out just now that Times Square is in fact a public space. If someone suggests that an exhibit as

tall as 1.7 m is not safe and hence, an entertainment licence should be applied for it, I think all those who hear this would consider it a fabricated excuse. As to some who says the display is unlawful, so to speak, my reaction upon hearing that is that we as Members of the Legislative Council should, on these matters Although you may think that you are being politically correct by endorsing the actions of the SAR Government, this is exactly our greatest worry.

Regarding the incident concerning The Chinese University of Hong Kong (CUHK) as an academic university, we dare not say whether it is white terror. Nobody is talking about the incident anymore because people have automatically danced to the tune of those in power and tried to prevent similar incidents from happening. But now, even the statue of Dr SUN Yat-sen cannot be displayed on the campus. I think you can just go and ask any ordinary Chinese how they feel about it. If the fate of the Statue of Liberty (the Goddess of Democracy statue) and the statue of Dr SUN Yat-sen in a place for pursuit of free academic research like higher education institutions or universities is placed under threat, is this not the most dangerous moment of freedom and democracy in Hong Kong? That is why I think we are subject to increasing more restrictions.

I just heard Mr LEUNG Kwok-hung laugh. I know he is of course in full support of what I have said. However, while I respect them, I cannot endorse the art or expression of foul language and even the ability, way and style of critique by the three Members of the LSD. I always stress that many slangs or colloquial expressions in Cantonese are spoken by Hong Kong people so much so that people can be talking to each other without understanding each other. However, I always bear in mind that a slip of the tongue can have dire consequences. When you say something, it may be just for venting your feelings. President, it is really important to vent one's feelings. For example, I think that when most of us saw England lose the World Cup match, we would swear. I will not say hypocritically that I do not swear. I also swear sometimes. I think many Hong Kong people, men and women alike, will swear when they are furious. And I always think that the use of foul language in such circumstances should be categorized as venting one's feelings and emotions. The important point is that we must make reference to and understand the thinking of those who swear.

If our allies should feel unhappy after hearing my remarks, or if they may lead to a potential rift so much so that the democratic camp is split up, this will only make our fight for true freedom and democracy and freedom of speech all the more difficult. Therefore, I appeal to everybody here that tomorrow is 1 July, and I am indeed very worried about violent incidents happening. I am very worried that some young people may vent their feelings by violence and as a result, quarrels can easily turn into fights. That is what we always say. Therefore, I appeal to everyone to act rationally and exercise restraint. Even if you have to swear, always respect the other party. Swearing can be funny and friendly sometimes, just like the swearing of the late Mr James WONG. His swearing really made a lot of fun.

Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, the motion moved by Mr CHEUNG Man-kwong today is about safeguarding Hong Kong people's freedom of expression. His motion is clearly intended to reflect on whether we indeed have this freedom, that is, whether Hong Kong people's freedom of expression has been tightened and suppressed. Otherwise, it would be meaningless to talk about safeguarding this freedom.

However, my personal view is that the SAR Government has indeed tightened and suppressed Hong Kong people's freedom of expression. The object of suppression is not Hong Kong people alone, it is the freedom of speech and expression of the whole society of Hong Kong. Mr WONG Sing-chi has cited an excellent example just now, that is, the incident about the planned performance of Shen Yun Performing Arts in Hong Kong. However, the Administration simply refuses to comment on the ground that it is an isolated incident and tries to end the whole thing there. The group was simply not allowed to showcase their arts and culture in Hong Kong. If this is not an act of tightening and suppressing the freedom of expression, what else is it?

President, I am very worried. For how can Hong Kong still claim itself to be an international metropolitan city if these kind of arts and cultural performance are restricted and suppressed in such a way? It does not only make us feel ashamed, it also makes us feel scared. I think it is extremely dangerous for an international metropolitan city to limit the people's expression of their thoughts,

speech and arts to such an extent. I hope the Government can truly review its policy and refrain from doing so again because it will do serious damage to Hong Kong.

For this reason, I think the suggestion made by Mr CHEUNG Man-kwong that "this Council urges the Government to cease suppression of pro-democracy activities" is not enough. Apart from pro-democracy activities, the Government should not apply suppression in many other aspects including speech, and political and cultural activities. All along, Hong Kong has been called a free society, a free international metropolis. That is what we have always been proud of. How can the Government do something like that now? I think it is really pathetic.

In addition to the excellent example of Shen Yun Performing Arts, I personally feel that whenever we hold demonstrations and protest marches recently, the police will constantly taunt the protestors by altering the routes again and again, claiming that it is done in consideration of our safety. However, the wardens of the organizers have already made proper arrangements. The police's act of limiting our routes is meant to taunt us, in the hope of sabotaging our demonstrations and protest marches. The act is an indirect form of tightening and suppression of our freedom.

The 1 July march will be held tomorrow. I hope you can tell the Secretary for Security and the police that I wish not to see something like this tomorrow. We have already applied for permission to hold the demonstration and we will co-operate with the police. But things like that just happen every time. I remember a recent case in which CHEUNG Man-kwong was furious because the police kept limiting our route. Originally, we could take up two lanes but then the police forced us to use one lane only. They kept on obstructing us. What purpose did it serve? What purpose do these petty moves serve? That is the second reason why I feel the Government is tightening and suppressing our freedom.

President, thirdly, we are talking about the seizure of the Goddess of Democracy statue (the Statue) today and I think it is a very serious matter. Why? When Secretary Dr York CHOW responded to the people's criticisms, the first thing he said was that the authorities had taken action upon receipt of complaints. President, if the Secretary lied, should he be punished? What he said is a lie undoubtedly because the staff of the Food and Environmental

Hygiene Department (FEHD) told me that they had received orders the night before to report duty at Times Square the next morning at 8 am so as to take actions later on. If the staff had been notified the night before, where did the complaints come from? Where did the complaints come from if the Statue had yet to be erected there? The staff did not even know how tall the Statue was. As a Director of Bureau, how can Dr York CHOW lie? Is it necessary for him to apologize and account for the whole incident to Hong Kong people? As a Director of Bureau, how can he act so shamelessly? Although he did change his line later, the mere act itself is an indication of how fabricated his reason was. He can just do whatever he wants and say whatever he wants, no matter how far-fetched that is. This is really shameful. I hope the Secretary can give us an account here as to why he said without obvious ground that actions had been taken by the FEHD upon receipt of complaints.

Mr IP Kwok-him mentioned just now the justifiability, reasonableness and lawfulness of an action. I want to point out that LEE Cheuk-yan had applied for permission to display the Statue more than a month ago. But the department had sent no one to discuss the matter with him. If the department considered that it might pose any danger, it could make enquiries with him as to how safety could be ensured. However, the department had not even asked him anything. Then how justifiable and reasonable its action can be? It is neither justifiable nor reasonable. The authorities had said that it was unlawful. But an application for permit had indeed been filed in accordance with the procedure, the authorities just did not reply at all. What does it mean? The authorities can do whatever they like and they had deliberately set up a trap to frame him. In my opinion, if the authorities are intent on suppression, they might as well come clean with it instead of resorting to these cover-ups and petty tricks. These are all despicable acts. We think that Hong Kong people must denounce such acts. We must not allow these acts of suppression to go on because our most important core value is freedom of speech and expression. How despicable it is for the authorities to suppress this freedom incessantly with these means.

Finally, what we are hoping for today in terms of safeguarding our freedom is not merely the authorities allowing us to stage our demonstrations and protest marches. We have the room of expression and it is not granted by the authorities. It is what we own ourselves. The authorities cannot bind us with rules and regulations. We can co-operate and discuss with the authorities. Whenever we hold demonstrations and protest marches, we always discuss with

the authorities. But why, after all these discussions, the authorities still try to obstruct us with various means time and time again? These are the authorities' own doing. Whenever scenes of chaos occur during marches, it is because of taunting from the police. But the authorities just blame us for such chaos. Is it lawful?

PRESIDENT (in Cantonese): Mr LEUNG, speaking time is up.

MR ALAN LEONG (in Cantonese): President, if we are to find an example of a challenge to Hong Kong people's freedom of expression recently, it will undoubtedly be the invocation of the Places of Public Entertainment Ordinance by the Food and Environmental Hygiene Department (FEHD) and the police to seize the statue of the Goddess of Democracy by force. At a sensitive time around 4 June, law-enforcement officers confiscated this statue of the Goddess of Democracy with such heavy political overtones and the action was taken with advance planning and executed in such a high profile. People who tried to stop the action were charged and this is a head-on challenge at the freedom of speech and expression and the spirit of the rule of law in Hong Kong.

President, the spirit of the rule of law is not as simple as enforcement and trials in accordance with law. The spirit of the rule of law lies in the application of law to protect the rights and freedoms of the people. It means the application of law to regulate the exercise of public powers, and any attempt to use brutal force to suppress the minority and the disadvantaged will never be tolerated and condoned. Now on this occasion the FEHD invoked the Ordinance and on the pretext that the Alliance had not applied for an entertainment licence demanded that the organizer concerned remove the statue. This is distorting the law and a blatant example of pressing a charge without any justification.

The Bar Association issued a statement and pointed out clearly that the original intent of the Ordinance is to regulate public performances and protect the safety of participants. It questioned the argument advanced by the authorities that the public display of the statue of the Goddess of Democracy was an activity of public entertainment. The authorities required demonstration activities

commemorating the 4 June Incident to apply for an entertainment licence. In my opinion, this is a great insult to the victims in the 4 June Incident and their families. It also defies common sense. This kind of law-enforcement action is clearly targeting the 4 June Incident. The white terror that ensues is a clear sign that the freedom of speech and expression vested in the people of Hong Kong by the Basic Law is undermined.

President, the scope of application of the Ordinance enforced by the FEHD is large indeed. If the authorities intend to use these provisions as a tool to suppress dissidents, it would be most easy for them to do so. If this trend is allowed to grow, the rule of law in Hong Kong will disappear in no time. What is detained now may be a statue of the Goddess of Democracy and what are detained tomorrow may be Hong Kong people who lose their freedom.

It does not matter how meticulous the provisions are drafted, if anyone has got the intention, he can certainly find some loopholes in the wording of the law and twist the original meaning. The most important thing is that the SAR Government itself must first show its respect for the rule of law and freedom. Mr HU Shih once said to the effect that tolerance was far more important than freedom. I have made an observation and that is, it seems that there is less and less tolerance in the SAR Government and in Hong Kong society. What I am saying is that whenever people come across opinions which are different from theirs, will they suppress them with a seemingly righteous attitude or will they ever reflect with tolerance? Tolerance is the nourishment for freedom. Soon Hong Kong will become an arena for political struggles and purges. There is no freedom when there is no tolerance. If the SAR Government cannot even take in JENS GALSHIOT and CHEN Weiming, how can it say that Hong Kong is a free society?

President, I would like to talk about the event of The Chinese University of Hong Kong (CUHK) in refusing the display of the statue of the Goddess of Democracy on the campus on grounds of political neutrality. President, when people stand aloof in the face of an issue of cardinal principles, they are in fact showing some political stand. University students should have a mission in being concerned about their country and for each university, there is also a set of moral values it holds. After the massacre on 4 June 1989, students of the University of Hong Kong (HKU) painted a dirge couplet on the Tai Koo Bridge in memory of the dead. Now, the freshmen of HKU would paint the words of

the couplet again every year. This is passing down the value held by HKU students in caring for their country.

Students at CUHK also have their own set of moral values. In 1989, the former Vice-Chancellor of CUHK, Prof Charles KAO and staff members co-signed a statement to condemn the suppression of the students. In 2010, the statue of the Goddess of Democracy was erected on the campus as a result of the unwavering protection of the students. This event has gone down in the history of CUHK and it is a chapter proudly representative of the values upheld by CUHK. The event is an answer to the past and a beacon for the future. It will certainly find its place in history. Such values should not be tampered with by the Vice-Chancellor or the university management. The latter should remain open, respect and come to the defence of academic freedom and the freedom of expression. This is the social and moral obligation of each and every university.

President, lastly, I wish to appeal to the people of Hong Kong to take to the streets on 1 July tomorrow. On 1 July 2003, half a million people took to the streets to show their staunch rejection of the attempt to enact legislation on the implementation of Article 23 of the Basic Law and its encroachment on the freedoms and the rule of law in Hong Kong. Now we can see from the seizure of the statue of the Goddess of Democracy and various petty moves taken by the Government that the freedoms and the rule of law so cherished by the people of Hong Kong are being undermined slowly. It is like a frog being boiled in lukewarm water. The number of people who join the march on 1 July is an indicator to the Chief Executive, the SAR and the Central Authorities of how much the people of Hong Kong would treasure these core values and institutions.

Democracy and freedom are inalienable. I call upon each member of the Hong Kong public to join the march on 1 July tomorrow and fight for genuine elections by universal suffrage.

With these remarks, President, I support the original motion and the amendment moved by Mr Ronny TONG.

MR ALBERT HO (in Cantonese): President, I heard that some Honourable Members from the pro-establishment camp had become anxious because of the

Government's action in seizing the Goddess of Democracy statues this time. In particular, I heard Mr IP Kwok-him say a while ago that this action was taken for the sake of upholding and respecting the rule of law. Actually, I am extremely sorry that he has reached such a conclusion, and he has really done so without thinking, without considering the facts and without common sense.

All of us should have noticed that this is actually a very simple incident. The Times Square is public open space, and many people will use this public open space to express their views. Various modes have been adopted, including delivering speeches, dancing, silent sit-in, and hunger strikes. I took part in two marathon hunger strikes last year. On the first occasion, the Hong Kong Federation of Students held a 64-hour hunger strike during 4 June. On the second occasion, a 60-hour hunger strike was held on 1 October by the Alliance. These two actions were obviously taken with the Goddess of Democracy statues by our side. Of course, there was more than one Goddess of Democracy statue as there was a smaller Goddess of Democracy statue. The Goddess of Democracy statues were distinctly erected there, as a symbolic expression.

In all such actions of public declaration, everybody knows that these props are often been used as a token of symbolic expression to convey symbolic messages. In this connection, we can definitely ask our friends from the LSD as they are most adept at using symbolic expressions such as hurling of a banana. How could this action be regarded as entertainment? The authorities concerned said that displaying the Goddess of Democracy statues in a public place was an entertainment, so it was necessary to apply for a licence. In saying so, the authorities concerned completely ignored the fact that it was a demonstration to declare our dissatisfaction. In other words, the use of props in future demonstrations would be an entertainment and licences would have to be applied with the Food and Environmental Hygiene Department (FEHD) or the Home Affairs Department for all actions with entertainment elements. This is utterly the biggest joke.

The incident was originally very simple. President, last year, the Goddess of Democracy statue was at least displayed twice within a few days, without any intervention. Why did the authorities concerned intervene this time around?

The second point is that, the larger Goddess of Democracy statue and relief sculpture that was 1.7 m tall were forcibly seized on 29 May. Safety reasons were cited by the law-enforcement officers as an excuse, but they just made up such reasons after the incident. They said that they had received complaints. As some Honourable colleagues have mentioned a while ago, the management company of Times Square immediately came forward to deny that, saying that there were no complaints. The authorities concerned only said that the action had been taken for safety reasons after the incident. Do Honourable colleagues know what this 1.7 m tall Goddess of Democracy statue is made of? In fact, it is very light and it will not pose any danger of crushing any passer-by. All those who have carried it around know that the Goddess of Democracy statue can actually be moved by a few persons, and it is not very heavy. Thus, we have evidently found that it is just an excuse.

There is one even more baffling point. Why was the FEHD enforcing the law? Actually, the Home Affairs Department is the law-enforcement body under the Places of Public Entertainment Ordinance. Was it because Secretary TSANG Tak-sing would easily be labelled? Was it because he only "harmonized" some social workers last year? Was it because the authorities concerned did not want to enforce the law in his name this year and asked the FEHD to enforce the law instead? It really beats me. In any case, no matter who enforced the law, President, the whole incident involved political motives and conspiracies. Some considered it unacceptable for the Goddess of Democracy statues to be erected there and felt being provoked. They could not accept or tolerate the public request for vindication of 4 June in this manner. The matter was so very simple. Thus, the FEHD staff had to line up the evening before and get ready for the confiscation of the Goddess of Democracy statues.

President, this is a serious political incident. We should not think that the extent of freedom currently enjoyed in Hong Kong is not too bad just because 4 June remembrance activities and 1 July marches can still be held. In fact, this kind of freedom fades very easily. Power belongs to those who courageously persist in fighting, and they will lose power when they become slack. A few years ago, I was arrested when I was protesting outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region for the Falun Gong followers. This group of people had to go through lengthy judicial proceedings and their charges were relieved only after their cases had

gone to the Court of Final Appeal. The road is really tough and the matter is not simple at all. As all of us can see that the Immigration Department has now become the hardest hit area insofar as a high degree of autonomy is concerned because it can deny people's entry at any time. I also have reasons to believe that the Department has basically lost its due autonomy.

President, under such circumstances today, we should look squarely at such a serious political incident. The Government must be denounced and the problem does not only lie in YORK CHOW or TSANG Tak-sing. Instead, there are motives behind the whole Government, and we cannot lower our guard at all. As regards the incident at CUHK, we should not say that it is politically neutral and it does not attach itself to bigwigs. We need only consider the persons on whom it conferred honorary doctorate degrees and bachelor's degrees each year to see that the degrees were conferred on high officials and noble people. Can it be regarded as politically neutral? Please stop kidding. It should actually stick to some core political values, that is, democracy and freedom. This is something that the university must do.

Thank you, President.

MISS TANYA CHAN (in Cantonese): President, regarding today's motion on "Safeguarding Hong Kong people's freedom of expression", its core is in fact a discussion on "one country, two systems". As we all know, "one country, two systems", a novel concept engineered by Mr DENG Xiaoping, is a very solemn undertaking given by the Central Authorities to Hong Kong people. But now do we still see "one country, two systems" being implemented in Hong Kong?

In January last year, we read an article by Mr CAO Erbao. He said then that the article was for self-use in the party school, not intended for distribution to Hong Kong people. Buddy, certainly he did not want it known by Hong Kong people, because he said there are two governing teams in Hong Kong: one is the Hong Kong officials including the Chief Executive, Secretaries of Departments and Directors of Bureaux; and the other is the Central Authorities and the Mainland cadres who are operating here. What was our reaction on hearing that? It made us quiver. Besides, recently we have also seen Mr LI Gang hosting a high-profile press conference and meeting some friends of the

pan-democratic camp. So, many people keep asking whether or not the Central Liaison Office in Western District has taken over the SAR Government in Central as the power centre?

Mr Alan LEONG mentioned "cooking frogs in lukewarm water" just now. After 13 years, the water has now turned from lukewarm to boiling. The water boiled hard and spilled over the moment when the Goddess of Democracy statues were forcibly seized. Was it due to "Grandpa" that the Government had to enforce the seizures for fear that "Grandpa" could not tolerate it? I was not there to witness it the first time when the Goddess of Democracy statue was seized. But I was at the scene the second time when the all-white Goddess of Democracy statue was seized at Times Square, where I surprisingly saw the policemen not seizing the Goddess of Democracy statue, but manhandling the people onto a vehicle first, and using the kind of violence that I will not believe it were it not witnessed by me personally. I have taken some video footages and photos, which were eventually sent to, broadcast and published by two TV stations and a newspaper. I also delivered a copy to Mr LEE Cheuk-yan, in which he and their vice-chairman were filmed being manhandled onto a vehicle.

Many colleagues have pointed out earlier that it is really unbelievable that the Places of Public Entertainment Ordinance (the Ordinance) was invoked to seize the Goddess of Democracy statues. Sometimes I will be invited as a guest to perform in some places of entertainment. However, judging from the entire venue and setting, it is hardly possible to treat it as an entertainment programme in this incident of seizure of the Goddess of Democracy statue. To our surprise, the authorities alleged that the organizers had not stated their purpose clearly, and that they had only indicated the Goddess of Democracy statue would be displayed. Had they given prior notice that they would stage a protest, the statue would not removed on that day.

Was there anything wrong with the authorities? For many years, the Goddess of Democracy statue is erected and displayed around this time every year as a commemorative and protest activity. How can the authorities be so ignorant about it? I really wish to ask the officials if they really do not have even the slightest degree of common sense? Taking a commemorative activity as an entertainment programme is completely an insult to the commitment and

conscience of the public as regards the 4 June incident, which is utterly unacceptable.

Of course, it is now still a mystery whether any complaint had been lodged. Now we have the Goddess of Democracy statues returned, but Mr LEE Cheuk-yan said earlier that a charge had been laid against him, but he has not yet received the summons. What do the authorities want to do? Do they want to pretend that nothing has happened by employing the delaying tactics? The authorities have invoked the Ordinance to wipe out all display articles, which will result in the disappearance of "easy-mount frames" in Hong Kong. "Easy-mount frames" measure only 2 m tall, and some even shorter. Do the two departments need to pass the responsibility to each other in their efforts to wipe out the display articles? The "easy-mount frames", which are very common in the Mong Kok Pedestrian Precinct, are used to put up displays. Yet we do not see the authorities taking actions to wipe them out. Draconian as the Ordinance is, the departments need not pass their responsibilities onto each other.

From the seizure of the Goddess of Democracy statues, we clearly see that this is now the moment that the authorities tighten up control, as well as the moment that Hong Kong people's freedom of expression goes into a "trough". Every year since 2003, we have been very obedient and applied for a licence from the Food and Environmental Hygiene Department for staging a march on 1 July. In the first few years, our applications for putting up displays at the same location were all rejected, and only the organizers and a number of organizations could apply for putting up displays. Later, perhaps the authorities suddenly realized that there was something wrong with this and approved our application for putting up displays. The activity we organize is legal and seen by hundreds of thousands of passers-by. What danger could there be? I do not understand why the authorities did not approve our licence application. Just give us a reason? Let me wait and see if the authorities will issue a licence to us next year.

In this seizure of the Goddess of Democracy statue, the Administration has crushed with its own hand the most solemn undertaking made by the State concerning "one country, two systems", which is not only an insult to Hong Kong people, but also to the nation.

In these last two minutes, I would like to talk about the incident in which CUHK had originally rejected the request for displaying the Goddess of Democracy statue on its campus permanently, but now said it had to conduct discussions in this regard. I believe we all know that "one country, two systems" and the university values are very important to us. This incident affords us the best opportunity to reflect on what really the university values are? A university should bravely uphold values that are correct and consistent with justice even if these values are not accepted by society or the government. A university should be a place where a diversity of values is maintained for the accommodation of different voices, and where the spirit of academic freedom, particularly academic autonomy, will not be sacrificed for political reasons.

President, if a university degenerates into a tool for political suppression, and never speaks up for justice and the truth, can there still be university spirit? I am not targeting CUHK, and instead I hope all universities in Hong Kong should be vigilant as we do want to see our next generation deprived of the ability to distinguish right from wrong. After all, we hope our next generation will continue to speak up for justice and hold on to their ideals. Universities are the conscience of society, for which we must defend with concerted efforts, so as to fulfill our responsibility for the next generation.

Tomorrow is 1 July. I hope adults will bring their kids along to join in the march. Tomorrow, the temperature may hit a record high for the year, and so we must be well-prepared for it. But come what may, we must continue to defend the freedom of expression and freedom of speech, and set a good example for our children.

With these remarks, I support the original motion and the amendment.

MR PAUL CHAN (in Cantonese): President, Mr CHEUNG Man-kwong's original motion mentions "The Chinese University of Hong Kong (CUHK) also rejected the request of its Student Union to permanently display the Goddess of Democracy statue on the campus on grounds of political neutrality", and several colleagues also talked about this stance of CUHK earlier. I wish to say a few words in my capacity as an alumnus, then if there is still time, I would also talk about another issue mentioned in the motion, that is, "safeguarding democracy

and the rule of law while respecting the freedom of pluralistic expression is one of the core values of Hong Kong people".

President, at the beginning of this month, the Administrative and Planning Committee of CUHK rejected the application from the President of the Student Union for displaying on campus a statue of the Goddess of Democracy on grounds of "upholding the principle of political neutrality". As an alumnus, I pointed out at once that the explanation of "political neutrality" as put forward by the University management was not at all convincing. At that moment, I pointed out that in my opinion, the Goddess of Democracy statue symbolized the calls for "anti-profiteering by officials, anti-corruption and democracy". The fact that it was displayed then at the Tiananmen Square had nothing to do with the subsequent occurrence of the 4 June Incident. Personally, I did not think its display on campus had any special political indication. I also said that I believed the University was an institution for the pursuit of academic excellence and research, so it should accommodate different political views and voices with a liberal, open and broad attitude. I hoped the University could be persistent in this regard, as there should be no boundary as far as the pursuit of academic excellence was concerned.

President, the University management later convened a Council meeting on 22 June to report the decision made, and a notice was subsequently issued. In the notice, the University explained that "political neutrality" was only one of their concerns in making the decision. They also took into consideration factors such as students' safety, the period of display and public liability insurance. However, unfortunately, these factors were not stated clearly by CUHK in the information disseminated and in the communication with students and the public. There is obviously room for improvement in the handling of the whole matter.

President, as to "political neutrality", the University had the following explanation, please allow me to quote: "Members of the University (as individuals or groups of individuals) enjoy the freedom of expression which the University must uphold; and CUHK (as an institution) should maintain political neutrality. It is the duty of the University to respect and defend the freedom of all members of the University (as individuals or groups of individuals) to express different opinions and to hold different positions (no matter such opinions are

mainstream or unwelcome ones), as well as to organize related activities (including exhibitions) to express their opinions. As such, the University has never made any decision to prohibit such activities. Over the years, activities to commemorate the 4 June Incident (and many other similar activities) have taken place on campus. However, the University (as an institution) should maintain political neutrality and should not involve (or deemed to be involve) in any political activities." President, as far as I know, the position of political neutrality held by CUHK is similarly adopted by other renowned universities in the world.

I made quotation just now not to induce another round of debate in this Council. I only feel that, since I know the explanation of the University, I have the responsibility to make it clear and to put it down in public record.

President, I know CUHK is aware of the opinions and criticism expressed in the community and it has learnt a lesson. I think we should allow the University more time and latitude in dealing with the issue.

The original motion also mentions "safeguarding democracy and the rule of law while respecting the freedom of pluralistic expression is one of the core values of Hong Kong people". I cannot agree more. It is particularly so when we are facing opponents such as Shanghai. As an international financial centre, we must find out our competitive edges. As I always say, what the Mainland lags behind us is our soft infrastructure, meaning democracy and the rule of law, freedom of communication, freedom of the press and speech. These are not only our core values, but also our core competitive edges. If we lose these edges, it will not be easy for us to maintain our position as the world's leading financial centre.

President, it is natural and indeed normal to have people of different views and political opinions in the community. Even if some of these voices are not welcomed, we should still adopt a tolerant attitude to allow these voices to be stated and considered in this Council and the community. It is an important indicator of whether or not Hong Kong is a mature civil society.

President, I so submit.

DR PRISCILLA LEUNG (in Cantonese): President, in regard to The Chinese University of Hong Kong's (CUHK) rejection at one time of the Student Union's application for displaying a statue of the Goddess of Democracy in remembrance of the 4 June Incident, and the police's seizure of the Goddess of Democracy statue of the Alliance on grounds of violating the Places of Public Entertainment Ordinance (the Ordinance), I expressed some time ago open disagreement with the actions taken by the police and CUHK. The Government's decision of seizure was even more incomprehensible, and it could be described as anti-intellectual.

Twenty-one years have passed in a flash since the 4 June incident. As a front-line reporter and an oversea student staying in Beijing, I witnessed the historic tragedy and understood very well that this wound of history could hardly be healed by one or two analyses, explanations or slogans. To the people and leaders of China, it was a painful lesson in history. I believe this knot can be untied one day. As I was a front-line reporter of the Hong Kong Standard stationed in Beijing, I was therefore acquainted with many people involved in the movement. Whenever I saw on the television friends who were forced to flee from China trying to return home by various means, I still feel deeply saddened. I do hope that China can let them return home as soon as possible, to see the development of the country in the past 20 years and their families. It is true that after experiencing such a shocking event in Beijing, I feel sort of resistant to this kind of large-scale political movements, realizing that as our country is so vast and its politics so complicated, we cannot change the institution of the entire country by one or two political movements. Since then, I have chosen to adopt a little-by-little approach in changing our country.

President, after the reunification of Hong Kong, tens of thousands of people can still take part in activities in remembrance of 4 June each year, proving that Hong Kong is still an important window on China, no matter in terms of the economy, politics and freedom of expression. I very much respect those people who attend the activities in remembrance of 4 June, and I also understand that it is an important agenda item for the Student Union of various universities. As far as I can recall, before and after the reunification of Hong Kong (including the TUNG Chee-hwa era), there has never been any seizure of the Goddess of Democracy statue. As such, it was baffling to see the Government impound the statue by invoking the Ordinance this year. Is our Government so unwise that it fails to realize such foolish action before the activities in remembrance of 4 June would only induce more people to come forth

and oppose the Government? For this reason, in the light of the event, I could not help writing an article, appealing to the Government to return the statue to protestors as soon as possible.

It is the same with CUHK. I remembered years ago — several Members mentioned Dr Charles KAO just now — I crossed swords with Dr Charles KAO several times and used to write big-character posters against him. From what I remember, some students tricked him in some embarrassing ways. When asked whether he would punish those students, he just smiled casually and said, "Why should I punish them?" I think other Vice-Chancellors should make reference to his tolerant attitude. Though I do not think Dr Charles KAO is a perfect Vice-Chancellor, and indeed no one can be perfect, I still believe that tolerance is the greatest virtue of his.

The Goddess of Democracy statue that the Student Union of CUHK wanted to display is an exhibit in remembrance of 4 June and it has commemorative meaning to students, I therefore think that it is unnecessary for the university management to reject the application. As to its excuse of political neutrality, I wish to express some personal opinion. As I am aware, since they have rejected the application of the Student Union on grounds of political neutrality, we all believe that the term bears a negative connotation. Let us not discuss the correctness of using political neutrality as grounds and the explanation given at this moment, however, it is true that if we really respect different views, political neutrality is indeed an acceptable stance. During the Second World War, for instance, many countries were antagonistic to one another and took many wrong actions, but some countries, such as Switzerland, still insisted on their political neutrality. As such, in this Council, we should also be broad-minded. When some people choose to maintain their positive or negative stance to support or negative an issue, and if one of them remains political neutral, I will respect his choice and allow him some space to adopt the stance. On this issue, I believe the majority of CUHK alumni would agree to display the statue on campus, but as to the question of whether it should be displayed permanently, I welcome CUHK to openly consult all faculty and students.

As to Mr CHEUNG Man-kwong's motion, I do agree to the most part of it, however, with the exception of one point made in reference to the situation after the reunification of Hong Kong, "the freedom of speech and expression in Hong Kong is being gradually restricted, and the principle of 'one country, two systems' exists in name only". I think that it is not a true picture of the reality, for in this

Council, we can have heated debates every day, showing that Hong Kong is still an important window of expressing views in one of the Special Administrative Regions in China. For this reason, I can only abstain from voting on this motion.

President, I so submit.

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

MS MIRIAM LAU (in Cantonese): President, the freedom of speech is always the cornerstone of our prosperity, and it is our basic civic right protected by the Basic Law. The Liberal Party is always of the view that, as a pluralistic and open society, we must uphold this right, to ensure that everyone can express himself freely, so that different voices can be accommodated in Hong Kong. To ensure no infringement of this right, the public have to indeed make efforts together and show concern for it.

As a matter of fact, since the reunification, people in Hong Kong have treasured and made good use of this right. In addition to continued free expression of views, we can also state our stance in various forums. Also, both established and newly founded media networks have not slackened criticisms and monitoring of the Government or current affairs. They have become more critical, on the contrary.

The incidents that happened to the Alliance in organizing activities in remembrance of the 4 June incident this year, such as the interference undertaken by the Food and Environmental Hygiene Department (FEHD) on the display of a 5 m tall Goddess of Democracy statue at Times Square in Causeway Bay have attracted a lot of criticisms of its enforcement approach. I wish to point out, it is not the first time that the enforcement standard of the FEHD caused complaints. For instance, sometime ago, it prosecuted an old shoe shining operator in Theatre Lane, yet it subsequently agreed to issue him a licence under public pressure. Besides, it prohibited an ice-cream vendor from selling lollipop on grounds of hawking a commodity not specified in the licence. However, after being criticized by the Court as inflexible in enforcement, it adopted an alternate

approach. As to the appropriateness of the FEHD's invocation of the Places of Public Entertainment Ordinance to prosecute the Alliance, a review is certainly in order. However, if we escalate the incident to a level tantamount to suppression, saying that the principle of "one country, two systems" exists in name only — I do understand the sentiment of those who say so make this remark or Mr CHEUNG Man-kwong in moving this motion, but we think it is an overstatement. Hence we cannot agree with it.

The 4 June candlelight vigil this year, for instance, had a turnout of 150 000 people. Even the police's estimate hit a record high of 110 000 people. Besides, as the activity was held smoothly, we did not see any sign of suppression. In fact, I live in the vicinity of the Victoria Park. That night, I noted that the police cordoned off a number of roads to facilitate the smooth conduct of the vigil. All vehicles had to take a detour to arrive at their destination as all roads nearby were blocked. It is thus evident that the Government has exerted every effort to facilitate the smooth conduct of the activity. It shows that the freedom of speech or expression is protected in Hong Kong.

Nevertheless, the Government might have performed well on the issue of 4 June vigil, but the confiscation of the Goddess of Democracy statue by the FEHD did cause a lot of criticisms. In our view, the enforcement standard adopted this time was indeed most confusing. On the one hand, it said that the confiscation was on grounds of danger posed by the height of the statue, fearing that it might jeopardize public safety, but on the other, when someone expressed discontentment, it conceded at once and allowed the organizer to proceed with its work. It even provided assistance in transporting the statue to the Victoria Park and forgot all about those safety considerations. Then, what exactly is the reason? In this respect, the Government should indeed conduct a review.

Having said this, I also feel that when organizing activities, all organizations should, no matter how noble their cause is, abide by the laws and regulations, and follow the appropriate procedures. Nobody can do what they want on the assumption of a noble cause. A noble cause is not an excuse for recklessness and defiance of the law. We can not agree to this view.

The Liberal Party believes that the Government, after learning from the experience and lesson this time around, should review the relevant rules and

enforcement procedures, so as to enable the full protection of the freedom of expression and speech under the law. However, I also appeal to those proponents of views to do so in a lawful manner and comply with the law. If there is a need to submit an application and follow certain procedures, the persons in question should follow the relevant procedures and cannot do what they like.

President, in regard to the recent refusal by the Administrative and Planning Committee of CUHK of displaying permanently on campus a statue of the Goddess of Democracy on grounds of political neutrality, the Liberal Party agrees that universities should be a place upholding the spirit of pluralism and they should allow people of different views to express their stance freely. However, as pointed out by acting Vice-Chancellor Benjamin Wan-sang, in deciding whether or not to display the statue on campus, political neutrality was only one of the concerns, and there were still many concerns including safety, insurance, and so on. Indeed, the term "political neutrality" has induced a lot of controversies, but Vice Chancellor-designate Joseph SUNG Jao-yiu said that he would continue discussions with the faculty and students as soon as he reported for duty, and make an appropriate arrangement. We should trust the university, and we strongly believe that it will not easily give up academic freedom which is such an important cornerstone.

As to Mr Ronny TONG's amendment, it advocates a review of existing laws to ensure that laws relating to freedom of speech and expression provide proper channels for expression, the Liberal Party has no objection certainly. However, as this amendment is attached to a motion that we can not support, we therefore have to abstain.

Finally, we wish to stress once again that it is vitally important to uphold our freedom of speech and expression. As French thinker Voltaire said, "I disapprove of what you say, but I will defend to the death your right to say it". I believe it is a principle that every one of us should adhere to.

Thank you, President.

MR JAMES TO (in Cantonese): President, the Places of Public Entertainment Ordinance (the Ordinance) regulates public entertainment. In the past, offences charged under the Ordinance were mainly those involving cinemas having started

operation without obtaining a licence, while others were crimes, such as the so-called floor shows or strip teases that are rarely seen nowadays. These shows collected charges per person. Customers had to go through a black curtain which could only be seen in old Cantonese films now. All along, offences prosecuted under the Ordinance were of this nature.

President, political expression and protests are regulated by another law, namely, the Public Order Ordinance. If the Government considers the incident at Times Square an exhibition for public entertainment, I find it absolutely ridiculous. As our colleagues said, a volunteer or a so-called person-in-charge might have been asked if that was an exhibition, but the answer should not be conclusive. However, such a judgment should be made in a holistic manner to whether the entire activity was a public entertainment exhibition of a Goddess of Democracy statue or actually a political expression and protest.

President, from the demonstrations of the Falun Gong outside the Liaison Office of the Central People's Government (LOCPG), the summary of the verdict given by the Court of Final Appeal was very clear. To members of Falun Gong's daily erection of banners on railings outside the LOCPG, the FEHD accused them of doing so without prior application. However, apparently, after consideration, the Judges concluded that they were not displaying banners with "Jiang Zemin's suppression of Falun Gong is shameful!" They were not exhibiting banners for entertainment purpose. Otherwise, it would fall within the scope of the Ordinance. These were not exhibitions, but demonstrations instead. Even if the Government did misunderstand it in the first evening, how would it misunderstand it again in the second? Obviously, the Government premeditated and planned to suppress the freedom of speech and the activities of the Alliance.

President, the second thing is the letter of repentance. LEE Cheuk-yan coincidentally signed a letter of repentance in 1989, making him very sensitive about this. He did not have enough time just now, so he repeatedly asked me to say on his behalf that he would not sign any letter of repentance again. Yet, the Hong Kong Police Force went so far as to ask him to sign a letter of repentance. Of course, as a practitioner of law and a member of the Security Panel, I have asked him in detail about the content therein, and I even asked the police whether it did exist and to provide me with a model copy. I found out later that he had

signed the document to acknowledge that he had breached the law when he was at Times Square.

As a lawyer, I am even more sensitive to this because, generally speaking, the police would ask a suspect or a detainee to make a statement, to be followed by the signing of an admission statement. We have a court procedure called judges' rule, meaning to caution him with the following wording: You are not obliged to say anything unless you wish to do so, but what you say may be put into writing and given in evidence. The police will not trick him by sending someone to tell him that we are now giving you back the evidence, but in fact making him sign an admission statement stating that he knows he has breached the law. Is it not the same as signing an admission statement or a letter of repentance? Then, the police — it was indeed the Regional Crime Unit (RCU), I was so shocked that I almost fell on the floor — does it mean that the RCU, when facing suspects of serious crimes in future, can ask the robber to sign an admission statement without reading to him the caution statement? And that after the robber has promised not to commit any crime again, they would return to him the loot. Are they going to write these down? It is really unbelievable to see the RCU do such a thing. Even a duty officer would know what to do, not to mention the RCU. The only thing I can imagine is that the professional standard of the RCU should not be so poor, and that he must be told to do so, making him feel panic, or he was ordered to make the suspect sign the statement. Although I have been observing the work of the police for a long time, I really do not understand why the RCU would ask the suspect to admit his crime when returning him the evidence. Why is it necessary?

When I made an enquiry with the Assistant Commissioner of Police about whether it was a common practice, his answer was "very uncommon". I believe he dared not lie and he said he would find out if there was any precedent. He should have served in the police for a few decades to be promoted to such a high rank, yet he also found it "very uncommon".

President, I can only draw one conclusion, that is, the entire procedure is uncommon. I hope the Government can change its course. Otherwise, the Government's authority in maintaining our freedom of speech would be questioned by members of the public, and such questioning will go on till no end, plunging the Government into a deep abyss.

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

MR LEE WING-TAT (in Cantonese): President, the seizure of the Goddess of Democracy statue this time is one of the examples showing the reduction of our public space and freedom of speech. I believe that before we have a fully democratic system in Hong Kong, public space and the freedom of speech are vitally important, as they allow people (including the disadvantaged social groups) to express their views.

In recent years, the most well-known example was the Government's restriction on members of the public to air their views at Times Square and other places. Although I am concerned about the issue, I do not know the application procedures we have to complete for organizing political activities at Times Square. The Building Department and the Lands Department told me that I could file an application with some kind of Management Committee of Times Square. I asked them whether I could make an appeal if my application was rejected, but they could not give me an answer. To a certain extent, the space for the public to express their views is reduced.

The second example is freedom of speech and expression is not confined to words, it can also be realized through various cultural activities. The funniest thing is a couple of years ago, a gentleman drawing sketches in Central was driven away. I do not understand why the Food and Environmental Hygiene Department (FEHD) is so keen on driving away people. In short, they will drive away everybody. They will drive away people even if he is just playing the flute on the street. I once told the Secretary for Home Affairs that we had some kind of a disinfection policy in Hong Kong. Anyone performing any form of cultural or entertainment activities, no matter how simple, would be driven away. In fact, apart from giving entertainment, cultural activities are also a form of expression.

Some cultural activities, such as a drama about the 4 June Incident — the Edelweiss, am I right? — they are in themselves a form of expression, but they must be performed in rented venues. We may ask this question: why can they not be performed outside some community centres? Or is it possible to stage the performance at Ferry Pier 7 (the Central Ferry Piers now), using the vast promenade as the theatre? The answer is no. Anyone who wants to stage a performance there would have to submit an application. However, I can tell you

for sure that no application would be successful. You have to go through the Lands Department, the FEHD, the Hong Kong Police Force, the Leisure and Cultural Services Department or even the Television and Entertainment Licensing Authority. In short, the procedure of going through these six or seven departments represents an intrinsic restriction of the system, leaving us very little freedom of expression.

President, honestly speaking, insofar as the freedom of speech and expression is concerned, anyone who wants to say something, do something or to express views through some cultural activities must go through very cumbersome administrative procedures. They are simply beyond the ability of ordinary people. The Alliance has been very resourceful; it manages to rent the Victoria Park on the 4 June every year. However, apart from the existing cultural venues, it would be almost impossible for an ordinary organization to rent any venue. I really do not understand why we have such a high threshold in this regard.

I wish to say more about my concerns and street performance as a form of freedom of expression. The "Open Stage" Pilot Scheme would only be launched in July this year, which is on the day after tomorrow. Nevertheless, we still have to make an application and notify the relevant departments. Sometimes, I wonder if the Government has adopted a manipulative mechanism towards freedom of expression, preferring not to grant any approval. On this form of expression, it would rather impose a restriction the more stringent the better. In my view, apart from the conspicuous example of the Goddess of Democracy statue, even in a society upholding the rule of law, Hong Kong is restrictive on the expression of views and voicing of political opinions by means of cultural activities, music, drama, and so on.

President, many colleagues have analysed on this issue. The last thing I want to say is, if Hong Kong cannot move towards adopting a looser and more liberal attitude towards the expression of ideas and voicing of political views through other means, we are indeed not coping with our political development. Undeniably, the progress in political development is still very slow, but changes to the system must be introduced gradually. Besides, the functional constituencies will be abolished sooner or later, and the threshold for the Chief Executive election will be lowered. The entire political ecology will move towards democratization. Even if our organizational structure can not achieve this speed, but from the civic activities, such as the Post 80s Anti-Express Rail

Group, the constitutional reform and the 1 July march to be staged tomorrow, we can see that these activities outside the establishment are trying all the time to break through, test and breach the bottomline of the Government on the restriction of the freedom of expression.

The Government and Policy Secretaries should indeed consider if they should allow the suppressive system of various government departments to continue to exist under the present legislation. This system will finally make the community and the public find expression of views — not just words, but also political views expressed through the forms of drama, culture, music, and so on — to be in conflict with the Government. For this reason, I hope the Under Secretary can heed my views and consider with other departments, in the light of the restriction under the existing legislation, whether there is a need to conduct a comprehensive review, so that Hong Kong can implement a system that allows people freedom in expressing views and political ideas when moving towards democracy.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, you may now speak on Mr Ronny TONG's amendment. You may speak for up to five minutes.

MR CHEUNG MAN-KWONG (in Cantonese): President, several colleagues do not support Mr Ronny TONG's amendment. One of the reasons is that although there is nothing wrong with Mr TONG's amendment, it is attached to the original motion of CHEUNG Man-kwong, in particular to the phrase "the principle of "one country, two systems" exists in name only", so they cannot subscribe to it and will abstain.

I wish to invite him to find out if his amendment is really as he said, attached to my original motion. My original motion has three parts: the first part is the activities held by Hong Kong people this year in remembrance of the 4 June Incident were suppressed; one of the examples is the seizure of the two Goddess of Democracy statues and the Tiananmen Square Massacre relief sculpture by the

police by invoking the Places of Public Entertainment Ordinance, and it is a most recent incident. The second part is about the Immigration Department twice denying the entry of artists whose art pieces were displayed before and after the 4 June vigil in remembrance of the Incident. The third part is the Chinese University of Hong Kong rejecting the request to permanently display the Goddess of Democracy statue on campus on grounds of political neutrality. For these reasons, as I stated in my original motion, the series of incidents have caused worries about the freedom of speech and expression in Hong Kong is being gradually restricted, and the principle of 'one country, two systems' existing in name only. Indeed, the focus of the motion is on the worries. In other words, as the series of incident have caused worries, will our freedom of speech and expression be affected? Will the principle of 'one country, two systems' exist in name only? Under this circumstance, the amendment of Mr Ronny TONG is pegged to my motion. As such, I would like the Government and the relevant colleagues to understand — although I know you will not be convinced in any way — you should support Mr Ronny TONG's amendment and even support the amendment to be pegged to my original motion.

As a matter of fact, the freedom of speech and expression is something we should defend until the very end. The issue in question involves activities in remembrance of the 4 June Incident and its vindication. As these are activities extensively sympathized by the masses that even trigger acts of conscience and principles, no one therefore dare to impose direct suppression and restraint. Dare the Government not lend out the venue in the Victoria Park for holding the 4 June candlelight vigil? For this reason, the Government is playing tricks by resorting to using the laws as its tool, exhausting its ways and means to unsettle the public. For instance, the Immigration Ordinance was invoked to deny the entry of pro-democracy activists and artists, the Places of Public Entertainment Ordinance was invoked to seize the Goddess of Democracy statue and volunteer workers defending the Goddess of Democracy statue were arrested for obstructing police officers in their discharge of duty under the Police Force Ordinance. They were just defending the Goddess of Democracy statue, and the Government later returned the statue to them in accordance with the law. It proved that the defence action itself was not wrong, otherwise, why would the Government return it to them? The worse thing is, the Government prosecuted members of the Alliance in Support of Patriotic Democratic Movements in China, including LEE Cheuk-yan, who entered the LOCPG to protest the imprisonment of LIU Xiaobo for misdemeanor under common law, and prosecuted guests of

Citizens' Radio, including SZETO Wah by virtue of the Telecommunications Ordinance. Are these laws? The Government, on grounds of law enforcement, obstructed memorial activities and reduce the freedom of speech and expression, but knowing that the 4 June Incident will be vindicated soon, it dared not directly challenge the masses commemorating 4 June. However, as the Government dared not take any action and leave what it did in history as a shameful act, it therefore invoked these laws to obstruct, or arbitrary conclude that the principle of "one country, two systems" existed in name only" and forgot about the term "worries" (*The buzzer sounded*)

PRESIDENT (in Cantonese): Your speaking time is up.

MR CHEUNG MAN-KWONG (in Cantonese): Thank you, President.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, many Members have today expressed their opinions on this topic of safeguarding Hong Kong people's freedom of expression which is a great concern to us. I wish to thank Members for their views and opinions.

I said earlier that Hong Kong people's freedom of speech and expression are protected by the Basic Law and the Hong Kong Bill of Rights Ordinance (BORO). In fact, every day, Hong Kong realizes a high degree of freedom of speech and expression. The mass media in Hong Kong is flourishing; local and international newspapers and magazines are on sale everywhere and they are free to report and comment; newspapers can freely comment on ills; the electronic media, through various kinds of programmes, invites guests from different sectors and people from all walks of life to comment on government policies and express their opinions on the measures, stance and performance of the Government. Actually, from time to time, we can hear voices criticizing the Government or other people. In Hong Kong, we have a host of commentators, columnists, news reporters, audience and readers of different styles and political views who are freely expressing their views through different channels every day.

At the same time, in this Chamber, Members are also expressing their opinions, which through the media, are brought to every corner in Hong Kong. For the people, they can express their views and aspirations by means of rallies, processions or protests. In Hong Kong, we have sufficient freedom of speech and expression, and the Government will continue to safeguard the basic rights of the people and protect their freedom in this regard.

Earlier, many Members have expressed concern over the enforcement action taken by the departments concerned on 29 and 30 May this year under the Places of Public Entertainment Ordinance (the Ordinance). The purpose of enacting the Ordinance is to ensure public safety and order at places of public entertainment. Thus, all these places have to comply with the requirements on building safety, hygiene, fire services and ventilation facilities prescribed by the Food and Environmental Hygiene Department (FEHD) and the departments concerned (for instance, the Buildings Department, the Fire Services Department and the police).

The Secretary for Home Affairs is the licensing authority of the Ordinance, while the licensing procedures under the Ordinance are enforced by the FEHD.

On 29 and 30 May this year, officers of the FEHD took action at Times Square in Causeway Bay to enforce the Ordinance, and the police were also on the scene to maintain order, to prevent any outbreak of clashes or other unlawful acts. Regarding the organizer's intention of placing exhibits at Times Square, the FEHD had not received any application for a licence. Despite repeated warnings and requests by the FEHD for the organizer to clear away the exhibits and leave, the organizer remained defiant. The FEHD then told the organizer that it would be summoned. The FEHD is now handling the summoning procedure.

At the time, the police also issued repeated warnings to the organizer, asking it to stop violating the legislation and remove the exhibits. However, the organizer turned a deaf ear to the warnings, and the police eventually took action to stop the organizer from continuing to breach the law and seized the exhibits.

In conclusion, the departments concerned took enforcement action in accordance with the law to seize exhibits outside Times Square, and it has nothing to do with politics or the freedom of expression.

Several Members also talked about some people being refused entry. The rule of law is the key to the success and sustained prosperity of Hong Kong. The SAR Government attaches great importance to our legal system. Like the immigration authorities in other parts of the world, the Immigration Department (ImmD) is responsible for enforcing and upholding effective immigration control according to law. In handling each application for entry, the ImmD will, in accordance with the law and established policies, and depending on the situation of individual travellers, consider all relevant factors before deciding to allow or deny entry.

As regards individuals denied entry, that is a matter of law enforcement by the ImmD, and it has nothing to do with freedom of speech or expression.

Some Members talked about obstruction posed by the police to the organization of processions. Just as other cosmopolitan cities, the HKSAR has legislation to regulate public meetings and processions, the purpose of which is to strike an appropriate balance between protecting individual's right to freedom of speech and peaceful meeting and safeguarding the overall interests of society.

Upon receipt of notification on public meetings or processions, the police will contact the organizers of the activities as soon as possible, and will proactively maintain close communication with them to provide opinions and assistance. However, we all know that Hong Kong is a crowded place with a lot of people, large-scale public meetings and processions will affect other people or road users, and may affect public safety or order. Thus, while facilitating protesters in expressing their views, the police also have the responsibility to ensure public order. They also have to strike a balance, having regard to the rights and safety of other users of public places or roads. When expressing their aspirations to the public, procession participants should abide by the laws of Hong Kong and observe social order, and to hold their processions in a manner compatible with the principle of peace and safety.

Some Members mentioned law enforcement under the Telecommunications Ordinance. According to the Telecommunications Ordinance, any person will be deemed unlawful for placing or maintaining any communication facilities if he is not in possession of the appropriate licence. According to section 23 of the Telecommunications Ordinance, any person who knowingly takes part in the transmission of messages through unlicensed radio

transmitters may also be guilty of a criminal offence. If the Office of the Telecommunications Authority (OFTA) suspects someone is using unlicensed radio transmitting facilities for radio broadcast, or someone is participating in that broadcast, it will take suitable enforcement action.

The taking of enforcement action against the unlawful acts mentioned above by the OFTA in accordance with law is for the orderly management of the use of radio transmitting installations to avoid interference, which will disrupt the normal operation of radio transmission. This has absolutely nothing to do with the restriction of freedom of speech.

As regards the amendment proposed by Mr Ronny TONG, I said in my opening remarks that upon the enactment of the BORO in 1991, the Government has reviewed local legislation and made amendments. To date, the authorities have made over 40 amendment ordinances and subsidiary legislation, among which, over 20 amendment ordinances are related to freedom of expression and press freedom. After conducting the relevant review and making amendments, the overall legislation in Hong Kong is currently consistent with the provisions on freedom of speech in the BORO.

Furthermore, when drafting new legislation and amending existing ones, the Policy Bureaux and departments concerned have to consult the Department of Justice on the impact on human rights, in order to ensure that all new legislation and amendments to existing ones will not contradict provisions in the Basic Law and the BORO protecting individual rights and freedom.

Next, I would like to respond to the issue of academic freedom. I have said in my opening remarks that academic freedom is an important social value which Hong Kong has all along praised, and institutional autonomy is the cornerstone for the success of Hong Kong's tertiary education. On the premise of institutional autonomy, institutions can properly fulfil their responsibilities. Institutional autonomy comprises multiple meanings, the most important one being so long as they abide by Hong Kong legislation, the institutions, by law, enjoy freedom in school administration.

All University Grants Committee-funded institutions are independent statutory bodies, regulated by their respective ordinances. In the light of their different historical backgrounds, philosophies, religions and missions, respective

ordinances of the various institutions spell out the powers, freedom and governance structure of the institutions in respect of their aims and functions. In general, the institutions also have councils of governors as their highest governing structure, and they also have senates as the highest academic structure.

The Government endeavours to uphold institutional autonomy of tertiary institutions, and considers that the present governing system of institutions has effectively protected this principle of institutional autonomy, enabling institutions to carry out their duties of encouraging the creation and transmission of knowledge.

President, as regards the rights and freedom of the people, the Government is also devoted to upholding the Basic Law and all rights and freedom prescribed in all local laws. The Government has not suppressed pro-democracy activities. In fact, it is obvious to all that Hong Kong people enjoy freedom of speech, freedom of expression, as well as freedom of meeting, procession and demonstration.

Just like the masses, the Government also values and treasures the freedom we have. Such freedom is the cornerstone for Hong Kong's success. For Hong Kong to maintain its position as an international city and for society to sustain development, freedom of speech is indispensable. The SAR Government will resolutely protect the rights and freedom enshrined in the Basic Law and local legislation.

Moreover, the fact has proved the successful and comprehensive implementation of "one country, two systems" in Hong Kong. Hong Kong will continue to enjoy "a high degree of autonomy" and various freedoms under "one country, two systems". This is the most fundamental basis of development for the HKSAR.

Some Members earlier mentioned the meeting between LI Gang, the Deputy Director of the LOCPG, and some parties or alliances, and questioned the principle of "one country, two systems". President, we need to go through five steps to amend Annexes I and II of the Basic Law on the method for the selection of the Chief Executive and the method for the formation of the Legislative Council, and the Central Authorities have a constitutional role to play in this. Finally, Mr WONG Yuk-man referred to the remarks made by Secretary Stephen

LAM in the Legislative Council meeting last Friday. In the radio programme the Secretary attended the following day, he explained that he was only reflecting the opinions he picked up from the public and his friends.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Ronny TONG to Mr CHEUNG Man-kwong's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Ronny TONG rose to claim a division.

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

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr WONG Ting-kwong, Mr IP Kwok-him and Dr Samson TAM voted against the amendment.

Mrs Sophie LEUNG, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Miss Tanya CHAN and Mr Albert CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan voted against the amendment.

Mr WONG Kwok-hing, Dr Priscilla LEUNG and Mr WONG Kwok-kin abstained.

THE PRESIDENT, MR JASPER TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, three were in favour of the amendment, seven against it and 11 abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 17 were in favour of the amendment, six against it and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, you may now reply and you have one minute five seconds.

MR CHEUNG MAN-KWONG (in Cantonese): President, I do not have any particular expectation on the Government, for I know that it will still invoke the law to suppress activities in remembrance of the 4 June Incident. However, to The Chinese University of Hong Kong (CUHK), I still have hopes as the Goddess of Democracy statue has moved into CUHK campus. According to Mr Paul CHAN — a CUHK Council member — just now, political neutrality was not the only reason for CUHK to refuse displaying the Goddess of Democracy statue, but issues of safety and insurance were also involved. The situation became simpler then. I hope CUHK can accept the result of a referendum among students, as the so-called institutional autonomy is not confined to the management level of the university, but the faculty and students of the institution are also included. If the referendum result shows that the Goddess of Democracy statue can be displayed on campus permanently, please help the students in resolving problems of safety and insurance, so that as alumnus or former Council member of CUHK, I can feel honoured and share the glory for your respect of freedom of speech and expression.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr CHEUNG Man-kwong's motion be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

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

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the motion.

Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr IP Kwok-him and Dr Samson TAM voted against the motion.

Ms LI Fung-ying, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Miss Tanya CHAN and Mr Albert CHAN voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan voted against the motion.

Mr WONG Kwok-hing, Dr Priscilla LEUNG and Mr WONG Kwok-kin abstained.

THE PRESIDENT, MR JASPER TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, three were in favour of the motion, 13 against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 17 were in favour of the motion, six against it and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negated.

PRESIDENT (in Cantonese): Second motion: Policy on elderly housing.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

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

POLICY ON ELDERLY HOUSING

MR LAU KONG-WAH (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, as the ship of the constitutional reform has weighed anchor, we hope that all of us can focus our attention and efforts on livelihood and economic issues. We also hope that the Government will put more effort in livelihood issues, and that different parties and groupings can reach more consensuses on such matters. Regarding the livelihood issues, housing is currently of the utmost public concern. On the one hand, young people are having difficulties in achieving home ownership and finding their first flats. On the other hand, the housing problems faced by the elderly are getting more prominent and therefore should not be neglected.

According to the Government's statistics, there are presently about one million people aged above 65, which means that one out of every seven persons is over the age of 65. But twenty years later, one out of every four persons will be over the age of 65. The growth rate is rather shocking. I have asked my assistant to make a calculation to see how many colleagues currently in the Council will be under the age of 65 twenty years later. The result shows that there are only three, and they are Mr CHAN Hak-kan, Ms Starry LEE and Miss Tanya CHAN. As for the other 57 persons, they will all reach the age of 65 twenty years later, not to mention the Secretaries, Under Secretaries and Donald TSANG, who will all be over the age of 65. It is obvious that the growth rate is amazing. On the one hand it proves that Hong Kong people all enjoy good health and a long life, but on the other hand it also indicates the urgent need to review the policy on the elderly, especially the policy on elderly housing.

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

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has all along been working for the enhancement of the elderly welfare policy. In April, the Bauhinia Foundation Research Centre published a study report titled "Rethinking Housing for the Elderly", which contains various suggestions, including several newer concepts and some ideas that we often promote in the Council. We hope this kind of studies as well as the Members' views expressed in today's debate will be considered by the Government.

The DAB hopes that the Government will focus its attention and efforts on a few aspects, particularly long-term planning and strategies, which I think we should spend more time to discuss.

First of all, many elderly people will have to face the problem of accommodation after retirement. The Hong Kong Housing Society (HKHS) has, through the Senior Citizen Residence Scheme, developed some high-quality elderly estates in Kwun Tong and Tseung Kwan O. Though small in scale, these elderly estates, equipped with satisfactory facilities, are of high quality and well received by the public. Now there are only about 500 such HKHS units, but many elderly people want to live in such units. Hence, the Government has recently adopted a land policy, which aims at implementing projects on an early

and pilot basis. The project in Tin Shui Wai, in particular, allows the HKHS to continue to work out plans for this kind of high-quality elderly estates. Such efforts, I think, should be recognized.

However, the public still cannot see any long-term and comprehensive planning from all these piecemeal jobs. Therefore, in the process of future land use planning, the Government may consider building some small but high-quality elderly residences adjacent to the public housing estates or private buildings so as to allow young couples to live near their elderly parents. Currently, some large-scale redevelopment projects are also being carried out by the Urban Renewal Authority (URA), which should undertake the social responsibility to work on the layout of the communities to be redeveloped. We think that it might be difficult to require young couples to live with the elderly, but if they can live in the same estate or the same lot, or as long as they can live near each other, family harmony, in my opinion, can be enhanced. In this regard, the URA may assume the full responsibility of planning and promoting this kind of projects.

The HKHS also has the same kind of experience. Deputy President, I know that many non-government organizations such as the Tung Wah Group of Hospitals, Po Leung Kuk and the Caritas have not yet fully developed their lands. So can these organizations consider co-operating with each other or working with the HKHS to promote this kind of high-quality elderly residences? Taking this into account, we can further broaden our vision on land planning and mutual co-operation between organizations with a view to expanding the Senior Citizen Residence Scheme.

Deputy President, this is not just feasible in Hong Kong. In fact, many elderly people are longing to settle on the Mainland or in their hometowns. Last year, the DAB visited nine cities in the Pearl River Delta, including Zhaoqing, where we found an elderly home run by a non-profit-making organization in Hong Kong. That elderly home, specially built for Hong Kong people, is surrounded by hills and lakes, with extremely good environment and facilities. However, not many people live there. As far as we know, the crux of the question is the medical issue. Similarly, there are very few residents in the elderly homes run by the Hong Kong Jockey Club in Shenzhen. In fact, senior citizens in Hong Kong long to go there, but there is a lack of overall supporting measures.

Supplement VII to CEPA has just been signed this year, under which Hong Kong hospitals are allowed to be set up on the Mainland. This actually offers us a very good opportunity. If there are overall supporting measures, including that of Hong Kong hospitals, I think the concept of using lands on the Mainland for implementing Hong Kong projects can be fully utilized. As long as the Government has the determination to negotiate with the Mainland authorities, I think the latter are willing to co-operate with us.

Of course, the reviews on the permissible limit of absence from Hong Kong with regard to medical services, welfare services or "fruit grant" should continue with a view to extending the concept of portable benefits to the Mainland. I think this may help provide the elderly in Hong Kong with one more option, and one more solution.

In fact, many civil servants or retirees have properties on the Mainland. However, they have to rush back to Hong Kong for medical consultation. This does not do them any good. But if they have a nearby Can we study the feasibility of extending the medical benefits to the Mainland? It is predictable that such a measure will be utterly cost-effective and particularly beneficial to the patients. Can the Government also consider this?

Another issue concerns "reverse mortgage". Of course, currently "reverse mortgage" is still a concept and yet to be put into practice in Hong Kong. According to this concept, if a senior citizen has a residential flat, he can mortgage his flat to a bank and receives a lifelong monthly income in return. Moreover, he can continue to live in his flat without any worries. Of course, for those who only have a flat but without a considerable amount of savings or even without a retirement pension, this kind of mortgage scheme is rather attractive as they no longer have any income and their children might also have certain burdens. For a flat that is worth \$1 million, the bank may give the owner a monthly income of \$2,000. As for a \$2 million flat, an income of \$4,000 can be offered. With this income and the \$1,000 "fruit grant", the owner can actually live a rather good life without having to worry about problems of accommodation and relocation.

In 2008, the Business and Professionals Federation conducted a study which pointed out that there might be about 120 000 such kind of families and the number would probably increase to 250 000 twenty years later. So the market does exist. In fact, regarding the above proposal, Mr TAM Yiu-chung, Chairman of the DAB raised a question at a Council meeting in 2000, that is, 10

years ago. I do not know if the Secretary has found the question concerned. At that time, the Secretary for Financial Services was Rafael HUI and his reply was greatly disappointing, he said that there was no need to conduct any studies. I hope that having experienced the changes in the past 10 years and the growth of the elderly population, the Government has changed its point of view on this issue and Secretary Eva CHENG will not say there is no need to study again.

For some graduates, they are now looking for their "first flat". But for the elderly, what they own may be their "last flat". If their asset, that is, their last flat, can be converted into cash, and if they can continue to live there and at the same time receive a monthly income, I think it is worth considering. Banks are now studying the feasibility of this approach. If the Government and the Hong Kong Mortgage Corporation can promote this approach together, a market will be formed. In my opinion, this is very important. Last but not least, of course, we have to let the elderly make their own choice and provide them with one more option. I hope the Government will respond to this subject.

Deputy President, with regard to "reverse mortgage", I do not quite like this term. In Chinese, the word "reverse" has a negative connotation, which means disobedient. Anyway, the Chinese term is just a translation from the English. Hence, we can take reference to the approach adopted by Singapore, which uses trendier names like "elderly mortgage repurchase scheme", "good living mortgage" or "grey hair mortgage". At least, they are better than "reverse mortgage". Perhaps the marketing people can give a thought to this.

Deputy President, I have also made other suggestions in my motion, which will be debated by Members later. However, I still think that the Government of the current term must respond to the issue of elderly and retiree housing, and in the future, any likely Chief Executive candidates of the next term will also have to face this issue. Hong Kong really needs a long-term planning. Thank you, President.

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

"That, as safe and stable accommodation and environment are fundamental and important elements of the lives of the elderly, and promoting 'ageing in the community' is all the more an important principle and belief of the SAR Government's elderly policy, this Council urges the Government to formulate a targeted, comprehensive and long-term planning policy on

elderly housing to meet the challenges arising from an ageing population, which includes:

- (a) to examine afresh the current land planning and formulate a comprehensive land policy with sites earmarked for elderly housing purposes;
- (b) to actively explore the introduction of the 'mixed use development' concept in private and public housing, and design a residence model which integrates elderly housing and complementary facilities, so as to lay the foundation for building a society of mutual care between the elderly and the young;
- (c) making reference to the experience of the Senior Citizen Residence Scheme currently undertaken by the Hong Kong Housing Society, to provide more incentives to encourage developers and non-governmental organizations in possession of land resources, etc. to develop elderly housing projects with complete complementary facilities for living;
- (d) to actively encourage the banking and insurance sectors to explore more financial packages, such as 'elderly housing insurance schemes', 'reverse mortgage schemes', etc., with a view to helping the elderly improve their living environment and lives in their twilight years; and
- (e) to review the existing policies on welfare and health care services for the elderly to enable those elderly people who choose to live on the Mainland to have peace of mind and enjoy their twilight years there."

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

DEPUTY PRESIDENT (in Cantonese): Three Members indicated earlier that they would move amendments to this motion, but Mr Albert CHAN has withdrawn his amendment. Therefore, the motion and the remaining two amendments will now be debated together in a joint debate.

DEPUTY PRESIDENT (in Cantonese): I will now call upon Mr WONG Sing-chi to speak first, to be followed by Dr PAN Pey-chyou, but no amendments are to be moved at this stage.

MR WONG SING-CHI (in Cantonese): Deputy President, today's motion has really become a platitude. Members who once debated the issue of elderly housing or elderly residence in this Chamber might, after such a long period, have become elderly people. However, those who have participated in the debates and become senior citizens themselves are still striving for a truly satisfactory housing policy for the elderly.

Deputy President, there are about 1.2 million elderly people over the age of 60, which accounts for 18% of the total population in Hong Kong. Among them, about 410 000 live in public housing, which means that about a third of the elderly are public housing residents. Some of them live with their families, but some have to look after themselves. Today, the Democratic Party will support all the motions and amendments. Taking into account the issue of elderly housing today or in the future, we cannot find any reason to oppose any motion. Even if the colleagues have different opinions, they are all for the good of the elderly. In this regard, the Democratic Party is in support of all the motions and amendments.

However, we will point out the existing problems brought by the Housing Department's elderly housing units (partitioned flats), that is, the approach of splitting housing units which has been criticized by us over the past years. Today, a large number of elderly people still live in these partitioned flats, of which many are yet to be fully improved. Regarding the partitioned flats, the situation is that several elderly people from different families and with different backgrounds are arranged to live in the same unit where they have to share the toilet and kitchen. Conflicts are inevitable, even for those who are living with their families. Elderly people are sometimes quite stubborn. There might be conflicts even if they are living with their families, not to mention sharing a flat and its facilities with other persons from different families and with different backgrounds. In fact, conflicts can easily arise and there might even be violence. I believe the Secretary has not only heard about this kind of incidents but has also handled a lot of such cases.

The Housing Department has stopped building these partitioned flats since 2000, and 10 years have passed. It has also worked out a conversion plan with a view to converting partitioned flats into normal rental flats, or even elderly homes, elderly centres, social service centres and venues for other purposes. While the Government acted swiftly in the case of seizure of the goddess of democracy statue, the conversion process is extremely slow, with only 500 units being converted each year. Today, it is infuriating to find that 6 000 elderly people are still living in these partitioned flats.

We have talked about this issue for many years, but why is the problem still unsolved? If we continue at this pace, it will take twelve years before we can provide all those 6 000 senior citizens with better accommodation, and our group of Legislative Council Members will also become senior citizens before we can solve the problem. Therefore, the Democratic Party hopes that the Housing Department or the Transport and Housing Bureau can do their best to speed up the conversion process of the partitioned flats and arrange the elderly to move into more comfortable residences as soon as possible so that they can better look after themselves.

Deputy President, in recent years, the district offices of the Democratic Party have received many complaints concerning facilities for the elderly, which include complaints about the lack of handrails or ramps at passageways, slippery tiles, unsuitable glass doors at the entrances of shopping malls, and the lack of seating facilities, which has forced the elderly to sit on the floor in the areas of the estates and shopping malls. Perhaps the Secretary does not have such needs. But if she does not believe this is the case, she may walk around the shopping malls and try to find a place to sit down. Apart from the Hong Kong style cafes, I do not know where you can find a seat.

I often visit Lai Kok Estate where we can find many elderly residents I do not want to talk about the North District any more Apart from the elderly, many young people also stay in shopping malls because the weather is hot and there is air-conditioning in those malls. In the playgrounds, there are only swings and slides. The elderly cannot use these facilities at all. The Democratic Party hopes that additional facilities such as handrails, ramps and non-slippery tiles that I have just mentioned can be provided for the elderly in these estates, especially the older public housing estates or shopping malls.

Even how the doors are operated has to be taken into consideration. Since the elderly do not have any fitness equipment at home, do we intend to turn the act of pushing doors in shopping malls into a kind of fitness training for them? How helpless are the elderly. Basically, all these problems have to be addressed. There should be pebble paths, gateball courts or other facilities for the elderly to stretch their bodies. Even chess tables should be provided. In Choi Yuen Estate, many senior citizens, or even other people, play chess every day. It is a very good pastime. Can the Government provide more of these facilities? In fact, the provision of such facilities is neither a huge project nor an extremely difficult task, but it reflects whether the Government cares for the elderly.

Many years ago, there were Liaison Officers in the Housing Department responsible for carrying out community services programmes in public housing estates. Later this post was cancelled and its tasks were handed over to the District Elderly Community Centres (DECCs) or the Support Teams for the Elderly (STEs). However, there are only 41 STEs across the territory and they have to take care of 1.2 million elderly people. Is it sufficient? It is hoped that the Government will consider enhancing this kind of service. In fact, elderly residents in public housing estates are less affluent and they especially need to be taken care of. Therefore, we hope the Government will enhance efforts in caring for senior citizens by sending service teams to visit the elderly, including hidden elderly people, and organize activities for them so as to enable them to have more contacts with the community. Actually there are outreach teams for the elderly, but we do not know why the current number of teams is so few. Perhaps with the establishment of integrated centres, most of the activities are thus held in the centres. The problems that have been mentioned today may not necessarily be followed up by Secretary Eva CHENG, but it is hoped that there will be communication among various Policy Bureaux.

The next thing I would like to mention may not be related to Secretary Eva CHENG's portfolio, but I think some measures still have to be considered or implemented with regard to elderly residence. What I mean is the absence limit for receiving "fruit grant". Why is residence related to the absence limit for receiving "fruit grant"? Many elderly people residing on the Mainland are "fruit grant" recipients. However, with the current restriction, they have to come back to Hong Kong from time to time and stay here for a certain period of time; otherwise, they cannot receive "fruit grant". As Mr LAU Kong-wah has just

said, if elderly people who live on meagre savings choose to reside on the Mainland, they cannot receive "fruit grant". As a result, the elderly may have some reservations about taking up residence on the Mainland. In fact, with regard to this situation, last week the High Court ruled that the one-year residence requirement imposed by the Social Welfare Department for application of Comprehensive Social Security Assistance (CSSA) was against the Basic Law. Though this is a CSSA case and no ruling has been made on "fruit grant", I know that Mr WONG Kwok-kin is prepared to go to court if the Government turns a blind eye to the situation.

Why do the elderly have to file a lawsuit against the Government before they can get its attention? Can the Government, by making reference to the CSSA case, abolish the absence limit imposed on the elderly as soon as possible? The government departments may say that this is not feasible. They may say, "If elderly people living outside Hong Kong are allowed to receive a monthly grant of \$1,000, what will happen after they have passed away? The money will continue to be deposited into their accounts." In fact, this problem can be handled through some administrative arrangements, such as requiring senior citizens to come back to Hong Kong to show up once a year. Is this feasible? If any senior citizens who have not showed up within a certain period of time, an investigation can be carried out to see if they have any problems. This is also a way to care for the elderly. We should not, for the sake of saving money, cause anxiety to the elderly about residing on the Mainland.

In this regard, the Democratic Party suggests that the Government should immediately implement the verdict of the High Court to abolish the absence limit for receiving CSSA payments and at the same time extend this measure to "fruit grant" recipients. In this case, the elderly can live comfortably on the Mainland, without having to reside in a small public housing unit in Hong Kong. In fact, the living environment on the Mainland may be better than that in Hong Kong. If we can pay more attention to this and provide the elderly with more options, they will be able to live a better life with better accommodation.

Deputy President, I so submit.

DR PAN PEY-CHYOU (in Cantonese): Deputy President, a lot can be told by the statistics. Therefore, before preparing this amendment, I have read some statistical figures.

First of all, when we look at the elderly population in Hong Kong, we can find that in the period between 1996 and 2006, there has been a substantial increase of the elderly population, both in terms of the actual number or its proportion to the total population. During these 10 years, the elderly population has risen from about 630 000 to 850 000 with an actual increase of 220 000 people, while its proportion to the total population has also risen from 10.1% to 12.4%. It reflects that the issue of ageing population in Hong Kong really warrants our concern.

Secondly, during these 10 years, there has been a substantial increase in the number of singleton elderly people, but their proportion to the total elderly population has remained at about 11.5%. This makes us feel at ease that the proportion of singleton elderly people has not increased. In fact, during the past decade, the proportion of elderly people living with their spouses has greatly increased from 48.3% in 1996 to 51.6% in 2006, which is quite unexpected. But at the same time, the proportion of elderly people living with their children has significantly reduced from 60.3% in 1996 to 53.4%. The reduction rate really makes us worry. As for the elderly living in non-domestic households, that is, living in elderly homes or nursing homes, the proportion has grown from 5.5% to 10%; the growth rate is really shocking.

According to the statistics in 2006, the proportion of singleton elderly people living in public housing reached 53.6%, more than half of the singleton elderly population. As for elderly public housing residents, whether living with their spouses or children, the proportion was about 40%. The proportion of singleton elderly people at around 40% or 50% was much higher than the proportion of public housing residents to the total population, which was about 31%. Among public housing residents, the proportion of elderly people was rather high.

What do all these figures reveal? Firstly, the decreasing proportion of co-residence of elderly people with their children is of the utmost concern. Are young people getting more and more intolerant of their aged parents and thus refuse to live with them? I believe this is not the case. In fact, most children

want to follow the tradition of co-residence with parents. However, they cannot do so. Why? It is because the residential flats we have today, as we all know, are getting smaller and smaller. Moreover, with the problems of inflated salable area and exaggerated size, these flats are already too small for a single person, not to mention a couple, and living with the elderly is just out of the question. Besides, with the soaring property prices, what kind of flats can young people afford? This is an extremely big problem.

Secondly, we can see that the proportion of elderly people living in private flats is relatively low. I think this reflects that the private property market has not been able to meet the needs of the elderly. We can also say that the property market has actually failed to cater for the housing needs of senior citizens. Furthermore, some elderly people are living in caged bedspace apartment in old districts, but not in public housing flats. We have been discussing this situation for decades but nothing has changed. Why can we not provide suitable accommodation for all elderly people? What is the problem?

The particularly high proportion of elderly public housing residents just reflects the low financial capacity of senior citizens. Moreover, the number of singleton elderly people living in public housing has remained high. What problems are these people facing? I will talk more about it later. In fact, they need more care and support. Since there are so many elderly people living in public housing, more community facilities and services have to be provided for their convenience. Later we will talk about what kind of services and facilities the elderly need.

Furthermore, I think the overall housing policy cannot meet the needs of the elderly. Why do I say so? It is because more and more elderly people have to move into elderly homes instead of living in their own homes. Consequently, the elderly have a bad time as no one likes to live in elderly homes; their family members are filled with remorse; and the Government has to spend a lot of public money to settle the elderly in elderly homes. At the end of the day, there is an all-lose situation.

In respect of the housing needs of the elderly, I have several suggestions. First, the financial capacity of elderly people is low and they have limited income after retirement. Many of them own their own property and have some savings that they always hesitate to use, yet because of that, they are not eligible for

CSSA. In such circumstances, though their flats are old, they do not have extra money to carry out repair work. We all know that in recent years, the Government has implemented some programmes such as the Building Maintenance Grant Scheme for Elderly Owners. But as far as I know, this is a one-off scheme with an implementation period of around six years. This scheme, in my opinion, can meet the needs of the elderly, so I suggest the Government to make it a standing scheme.

Another problem faced by the elderly is their deteriorating health. From enjoying free mobility to perhaps being wheelchair-bound, it is an ageing process. We can see that in many housing estates, there are a lot of steep slopes but no lifts, and escalators are not provided in shopping malls. It shows that the convenience of the elderly and their needs in public spaces are actually neglected.

As for the housing design, problems can also be found. The limited space and extremely narrow access have caused great inconvenience to the elderly who have to use wheelchairs or walking frames. Though their health is deteriorating, no conversion plans have been worked out to meet their needs. In view of this, I think the Government must cater for the needs of the elderly when formulating its housing policy.

The mental status of the elderly will also deteriorate. When they are no longer capable of looking after themselves, they need the care of family members. Some current schemes such as the Special Scheme for Families with Elderly Persons can provide an opportunity for core families to live with their elderly family members. In my opinion, though this Scheme is quite satisfactory, the housing units allocated are usually far away from urban districts. Family members have to spend a lot of time travelling to work, and since the working hours are so long nowadays, they actually do not have time to look after the elderly after returning home, even though they live together. In this regard, why can we not adopt a less rigid policy to extend the scope of the Scheme to housing units in urban districts? Besides, some elders who apply for public housing are not eligible for joining the Scheme because their family members or children live in private flats. In such circumstances, can we slightly relax our policy to allow the elderly applicants to choose an estate which is near to the residences of their family members and children?

It is very difficult for the elderly to build up a new social network. We find that many elderly people have lost contacts with their old neighbours and acquaintances due to the redevelopment of the public housing estates. Hence, in implementing public housing redevelopment projects, we have to be very cautious to ensure that neighbourhood relations will be taken into serious account. Can the authorities carry out the redevelopment work in phases and put in efforts to maintain the neighbourhood relations as far as possible?

Lastly, I have to say that elderly people need various kinds of services, including day care centres, home-based elderly care and outreach medical services. All such services require supporting facilities. If we hope that the elderly can age in the community, we must cater for their needs. This is what we want the Government to pay attention to. *(The buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

DR PAN PEY-CHYOU (in Cantonese): I so submit.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, I would like to express my gratitude to those Members who have shown their concerns on the needs of the elderly in housing and other areas and have raised their opinions on these aspects.

The topic of today's motion debate is "Policy on elderly housing". The discussion items proposed in Mr LAU Kong-wah's original motion and other Members' amendments already cover many aspects of the elderly housing policy, including how to provide suitable living environment for the elderly through land planning and housing design, and how to offer financial assistance to senior citizens through financing products in the financial market. Other aspects also include policies on elderly welfare and health care, the public housing policy as well as public housing design and environment. These issues involve many bureaux. Apart from the Transport and Housing Bureau, the Development Bureau, the Labour and Welfare Bureau, the Financial Services and the Treasury Bureau, and other statutory organizations such as the Urban Redevelopment Authority are also involved. I will represent the above bureaux to give an

integrated response on the motion, and will also convey the Members' views to the Bureaux concerned.

With the ongoing development of society, Hong Kong's demographic structure has experienced a change, in that the proportion of elderly people is getting higher and higher, this is similar to the case in many other developed regions. According to the Hong Kong Population Projections 2007-2036 compiled by the Census and Statistics Department, currently one out of every eight persons in Hong Kong is at the age of 65 or above, and it is expected that in 2033, one out of every four is an elderly person. Mr LAU Kong-wah, who is so clear-minded, has worked out the statistics for the Members and government officials.

Caring for the elderly has all along been one of the major policies of the Government. Our elderly policy aims at "ageing in the community". We encourage family members, old and young, to take care of each other, and neighbours to give mutual assistance, so as to establish a family-based support network, under which elderly people living in different places can receive various kinds of support conveniently. Therefore, under the current policy, we have to help the elderly "age in the community" by strengthening the role of families in mutual support as well as enhancing elderly support services and facilities so that senior citizens living in different places and with different needs can easily gain access to various kinds of welfare, health care and community services.

Regarding the policy on subsidized housing, the Government's current policy focuses on helping low-income families, including elderly people, who cannot afford private rental housing, by providing them with public rental housing (PRH) units. At present, more than 470 000 elderly people live in PRH units, which accounts for 40% of the elderly population in Hong Kong.

Through the implementation of appropriate policies and measures, the bureaux and departments concerned have all along been providing various types of support to the elderly in need. For instance, senior citizens who are not able to support themselves financially may apply for CSSA to meet their basic needs. As for low-income elderly people who cannot afford private rental housing, they may apply for the Hong Kong Housing Authority's (HKHA's) public rental housing. For those who live a comfortable life at home but have long-term care needs, they can apply for home care services subsidized by the Government. As

for others with long-term care needs but without proper care at home, application for residential care places for the elderly subsidized by the Government may be considered.

With regard to the design of buildings and estates, the Design Manual: Barrier Free Access 1997 published by the Buildings Department has set out requirements on correct accesses and facilities in a building for the convenience of the disabled. Those designs are also of help to many elderly people with mobility impairment. Since 2002, the HKHA has adopted the "universal design" in all new projects with a view to providing a living environment suitable for residents of all ages.

In respect of land use and planning, in order to provide the elderly with more diversified housing options, the Government granted two lots of land situated in Tseung Kwan O and Jordan Valley to the Hong Kong Housing Society (HKHS) at a nominal premium a few years ago for the implementation of the Senior Citizen Residence Scheme on a trial basis. The Scheme aims to provide elderly people of moderate income with elderly residences where services such as housing rental, community recreation as well as medical and nursing care are provided on a one-stop basis. Besides, the Government has also approved the HKHS to carry out other two elderly housing development projects at the former Tanner Hill Estate site in North Point as well as in Tin Shui Wai Area 115.

In the light of the changes in Hong Kong's demographic structure, we will keep on adjusting and improving our policies to ensure that the needs of the elderly are properly catered for.

Deputy President, I will give a summarized reply after Members have spoken on the motion.

Thank you, Deputy President.

MR ALBERT CHAN (in Cantonese): Deputy President, the Government's policy on elderly housing and the existing housing situation for elderly people in Hong Kong enable us to see clearly the Government's hypocrisy and inhumanity in this area. It also fully reflects the exploitation of the elderly and the indifference to elderly rights under the cruel capitalist system of the Hong Kong

Government. In this capitalist society, elderly people, especially those who are poor and helpless, have little or even no productivity. In this consumption-driven society, their meagre consumption power has made little contribution to economic development. Hence, policy-wise, the Government considers this group of helpless and disadvantaged people a liability, and based on humane considerations, they are given nominal and perfunctory care.

We can see that presently, the elderly housing problems are extremely serious. We have visited some old districts to understand the situation of the partitioned flats. We check out how the elderly live in a very hot caged home when the temperature reaches 38°C. Many elderly people who live in these old districts, including those residing in PRH units, have to leave home after getting out of bed every morning due to the extremely high temperature. They spend the day in the library or the park and will only return home after sunset to prevent from being baked to death in their oven-like homes without anybody's notice.

Regarding the issue of elderly housing, the Government always says that elderly people may apply for public housing. However, application for public housing will put you on a waiting list for at least three to five years. Even with the current points system, the waiting time is still long. Moreover, it is very difficult to get an elderly housing unit in urban areas, and it is extraordinarily difficult to be allocated a singleton elderly housing unit in a familiar district or somewhere near to the residence of your family members. Of course, two years ago, the Government implemented a scheme to facilitate the caring of elderly people. Under that scheme, family members can apply to live near the elderly through relocation. The Government is heading a good direction. Secretary Eva CHENG has, after taking up the task of carrying out this policy, made some improvement proposals. But overall speaking, the measures are still far from enough.

Let me point out some more serious problems to help the Secretary gain a deeper understanding of the situation. In fact, I did mention many of these problems to her when I met her on previous occasions.

Firstly, the elderly are very often forced to live with their family members. I use the word "forced" because it might be the Housing Department's (HD) established policy which has brought about this situation. Under this policy, it is almost impossible for members of a household to apply for relocation or splitting

of tenancy once they have lived together. Unless serious violence or even bloodshed occurs, splitting of tenancy is almost out of question. In recent years, the authorities concerned have been less rigid when handling the applications for splitting of tenancy. However, one stringent condition remains, which is the recommendation of social workers. Sometimes, even with the recommendation of social workers This question was raised at the meeting of the Panel on Welfare Services a few days ago Even with the recommendation of the integrated family services of a social service organization, the HD still turned down the applications for splitting of tenancy. This is so ridiculous. How can the HD turn down the recommendations from professional social workers? In fact, it fully reveals the arrogance of the HD under its rigid bureaucracy, its indifference to the needs of the community and its disregard to the authority and status of other professions. We must strongly condemn the rigid and bureaucratic attitude of the HD, and its disregard to the status of the professional social workers as well as the needs of the elderly.

Another issue is that many elderly people live in buildings with no lifts. Though the Government is planning for the gradual provision of lifts in buildings without this facility, in many cases, it takes two years before the plan can be implemented. Fuk Loi Estate is a typical example. The installation works, though having started, will take two years to complete. As many elderly people suffer from foot ailments, they can only navigate the stairs very slowly. Their application for relocation, even with doctor's recommendation, will still have to wait for half a year before approved is granted. During the interim period, as they cannot navigate stairs on their own, they have to ask for help every day.

Moreover, many elderly tenants have applied for the addition of their children-in-law and grandchildren into the PRH tenancy as their children, after marriage, cannot find a suitable accommodation of their own. This has led to many family disputes, especially among Mainland-Hong Kong families with different cultures and lifestyles. However, since the elderly applicants have signed an agreement and vowed adamantly that they themselves ask for the addition, they are in no position to apply for splitting of tenancy. This has resulted in many family tragedies. Some elderly tenants are often abused by their children-in-law, both mentally and physically. They are forced to go out all day and return home at night to sleep on the floor with a mattress. These scenes can still be seen in many districts.

In addition, there is the issue of singleton elderly housing unit. Take Tin Yan Estate as an example. The Estate was once used for interim housing by the Government, and was later converted into one-person flats. However, each flats has an area of only 80 sq ft and its bathroom is so narrow that an elderly people with some extra pounds will find it impossible to turn around inside. I once challenged the Deputy Director of the HD to stay there with me for a night, but he dared not do so. In fact, those places are simply uninhabitable. But as this design was in existence then, thousands of elderly people are still forced to live in these poorly designed and extremely narrow flats. The bathroom, in particular, simply does not allow you to turn around.

Besides, many elderly people were beneficiaries of the Home Ownership Scheme that they are thus ineligible to apply for public housing. I think there should be relaxation of this restriction.*(The buzzer sounded)* All these issues reflect that the current

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR ALBERT CHAN (in Cantonese): reflect the vicious side of the current policy.

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR CHAN KAM-LAM (in Cantonese): Deputy President, according to the rules laid down by the United Nations, when people aged over 65 accounts for more than 10% of the total population of a country or region; it indicates that this country or region has become an ageing society. In 2006, the population of people aged 65 or above in Hong Kong had already reached 860 000, accounting for 12.5% of the total population. It is obvious that Hong Kong has already become an ageing society. According to statistics, based on the existing speed of ageing, it is estimated that in 2031, the percentage will rise to 25%; by 2036, it will further rise to 30%, which means that 30% of the total population will be the elderly. The demand of the elderly for housing and care services will continue to grow substantially.

The society of Hong Kong as a whole has the responsibility to help these elderly people, who have made contributions to the development of Hong Kong, live with peace of mind during their twilight years. The Government, of course, is duty bound to do that. However, the existing resources of residential services are limited. With the growing number of the elderly, the additional places provided by the Government can hardly meet the demand. Moreover, many elderly people outside the social welfare net are unable to benefit. Thus, how to provide a better living environment for the elderly to age in the community is the key to address the problem of an ageing population. This requires the housing policy and the welfare policy of the Government to complement each other.

Although the Families with Elderly Persons Priority Scheme and the Special Scheme for Families with Elderly Persons are currently implemented by the Government, most of the relevant schemes target at the elderly and families that fall into the social welfare net. The housing needs of the elderly outside the social welfare net are not taken into account. At present, no private residential units are available in the property market of Hong Kong that specially catered for the elderly. Moreover, the Government has never responded to the housing needs of the elderly in its land use planning, district planning and land sale programmes.

The Senior Citizen Residences Scheme launched by the Hong Kong Housing Society (HKHS) has provided a very good example for the Government in designing a housing policy that caters for the elderly. The HKHS is responsible for the entire development cost of the project. Basically the facilities of the estates are able to meet the barrier-free standard. The units are equipped with bi-parting doors, railings, and hands-free video telephones. The tenants are also provided with various facilities specially catered for the elderly, as well as recreational, medical and health care facilities. The elderly are only required to pay a one-off lump sum "entry contribution" in return for a life tenancy of the units. The launching of two estates, namely Cheerful Court in Jordan Valley — an area which I am most familiar with — and Jolly Place in Tseung Kwan O are met with overwhelming response. They are fully occupied, with over 150 applicants on the waiting list.

The Government should examine afresh the existing planning. It should also proactively explore and seek to develop the opportunities of providing this kind of elderly communities or integrated communities so as to meet the needs of the elderly of different strata. Meanwhile, the Government should also consider whether it is feasible to ask the Housing Authority, the HKHS, and the Urban Renewal Authority, in redeveloping or constructing housing estates, to reserve units equipped with facilities catered for the elderly or introduce the life tenancy arrangements. Moreover, the Government can, through selling of land with certain restrictions on land use or additional conditions, require the developers to develop facilities and communities with complementary supporting services for the elderly; or provide a certain number of units catered for the elderly people. In short, if the Government is concerned about the housing need of the elderly, there are many other measures worth studying.

Ten years ago, the DAB conducted a study on the feasibility of introducing the "reverse mortgage scheme" from the United States into Hong Kong. As the term suggests, "reverse mortgage scheme" refers to the mortgage of the property by the owner to a bank, and through another organization, such as a mortgage company as the guarantor, the owner can obtain a one-off or a monthly payment until he passes away or for a period agreed by both parties. By that time, the bank can take possession of the property in order to sell it for cash. Generally speaking, the older the age of the owner, the better the chance of getting a loan

MR ALBERT CHAN (in Cantonese): Deputy President.

DEPUTY PRESIDENT (in Cantonese): Mr Albert CHAN, what is your question?

MR ALBERT CHAN (in Cantonese): A quorum is lacking now. I think this is rather disrespectful to the elderly.

DEPUTY PRESIDENT (in Cantonese): Mr Albert CHAN has pointed out that a quorum is lacking in the Chamber now, and this is obvious. Clerk, please ring the bell to summon Members to the Chamber.

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

DEPUTY PRESIDENT (in Cantonese): A quorum is now present. Mr CHAN Kam-lam, you may continue.

MR CHAN KAM-LAM (in Cantonese): By that time, the bank can take possession of the property in order to sell it for cash. Generally speaking, the older the age of the owner, the better the chance of getting a loan. Of course, it still depends on the value of the property.

A "reverse mortgage scheme" can help those elderly people who own a property to convert their property into cash, so that they will be able to support themselves, thereby alleviating the burden of their children and the Government in helping them tide over their twilight years. The elderly can also make use of the money obtained from "reverse mortgage schemes" to move to a better place and improve their quality of life. Since the introduction of "reverse mortgage scheme" in overseas countries, there has been a rapid growth in the product. A number of successful experiences of the scheme will provide useful reference for the Hong Kong market.

However, the introduction of these new financial products will require the support of the Government, as it may not be possible for ordinary mortgage companies to shoulder the risks of this kind of mortgage. We wonder if the Hong Kong Mortgage Corporation Limited will consider providing subprime mortgage arrangements to these mortgage companies, and protect them from shouldering the risks of granting loans higher than the value of the properties.

Moreover, it is necessary for the Government to provide complementary measures with regard to the long-term policy of providing CSSA for the elderly. This is because many elderly people who are CSSA recipients will find it difficult to approach banks to take their properties as a kind of security in "reverse

mortgage" arrangements. Thus, we hope that the Government will consider the housing need of the elderly from various perspectives. Thank you, Deputy President.

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, this Chamber has been degraded to become a place for promoting trade and investments. This is a conclusion drawn by me from previous conjectures long ago.

Whenever we talk about a measure which is considered by other societies as a kind of welfare that is, to provide the minimum level of reasonable living standard to people who have worked so hard in making direct or indirect contribution to the society; whenever we put this forward, the issue will provide opportunities for business development. Up until now, the development of the Hong Kong Housing Society (HKHS) has all along been funded by the Government. Now they are trying to do business with the elderly of the middle class.

Just now CHAN Kam-lam pointed out we might as well follow the practice of mortgage arrangements in the United States. Buddy, the structure of the property markets is different in the two places. Is that right? The Americans will find property prices getting lower and lower, because the bubble has already burst, right? Second, in any sense, the United States is a country. Hong Kong is just a small territory, specializing in property speculation, land speculation, "floor jump" — let me explain first, this is not a vicious remark, I am referring to skipping the floor numbers — how can we compare one to another? We are only imitating crudely with ludicrous effect.

If such a scheme is taken up by banks, first of all, are banks willing to take this up? Banks are not charity organizations, they only focus on doing businesses to get the maximum profits. Secondly, if it is taken up by the Government, I have no objection at all. If the Government is willing to make up for the shortfall, I definitely have no objection; because it will guarantee that the disadvantaged elderly people will not be on the downside and subject to manipulation.

It is really ridiculous that Hong Kong takes up the role of promoting trade and investments, working for giant consortia to reap money. Whenever it is

asked to do good work, it will ask whether the consortia will be benefitted. Bankers already have too much money. How on earth will banks become charity organizations? Take a look at the creditors of Lehman Brothers. How many of them are elderly people? Banks are actually cheating the elderly.

The Government's housing and property policies are a mess. The 10 measures implemented in the public rental housing (PRH) policy have led to problems in the supply of PRH flats. The production of the Home Ownership Scheme flats has stopped. They even said there are business opportunities, they ask property developers to do business and the elderly will benefit in the process. I once saw a painting, a famous one. It depicts people of the Roman Empire eating drumsticks and grapes, with spittle everywhere and crumbs falling on the ground, which are picked up and eaten by a slave.

Deputy President, these are maladies of this Council. Members returned by the infamous functional constituencies have made it clear that they work for the interests of the sectors. Well, CHAN Kam-lam is not like that, is he? Buddy, he is a Member returned by geographical constituencies through direct election. I live in that constituency where many frail and old people are unable to own properties. How can you still appeal to them by saying that this is a business opportunity worth trying?

Deputy President, I must tell you a true story. One day, I was walking in the estate where I lived. Several elders sitting there abused me with foul languages and vicious remarks. I turned and asked them why they cursed me. They accused me of stirring up troubles in Hong Kong and kept on cursing me. This incident happened during the period when Hong Kong was under the rule of TUNG Chee-hwa. I said to one of them, "Uncle, (I know why he is sitting there. Perhaps he does not have money to buy a fan or he does not have air conditioning at home. So he comes early to get the best seat) can I make you suffer like this? It is TUNG Chee-hwa who made you suffer." Hearing that, he made no reply. I do not know whether this elderly person is still alive. I have not seen him around now.

There is one more thing. The main victims of caged homes are the elderly. Those who live in complete destitution are mostly elderly people. I am talking calmly and assuredly here without any restrictions, making

irresponsible remarks. Will a property-led Council returned by functional constituencies vote to increase the cost of property developers? Each and every policy, such as the so-called green balconies, is aimed at cheating. Whenever the Government adopts improvement measures from overseas countries, these measures are being exploited as tools to cheat others. This Council of ours is really incompetent. Now we ask them to implement such and such measure, can we still ask them to take actions?

Deputy President, let us go back to the issue of PRH. The reason why the elderly cannot enjoy freedom is because if they wish to apply for social welfare, they will have to live with their children, or their children must abandon them. Moreover, when they apply for social welfare, their children have to sign the "bad son statement", or state that they are in discord, and that they are forced to live under the same roof solely because of the requirement of the household policy.

Is an elderly person an individual entity? I think so. On the surface, the "family-oriented" concept is pleasant to the ear. However, as a certain famous writer points out, there is only one reason that attributes to an unhappy family, but there are many reasons that attribute to a happy family. If an elderly person, who is poor or his children do not have the ability to support him, wishes to apply for social welfare, he has to draw a dividing line by claiming that his children do not support him. If he wants to add additional members to his household, he is not allowed to split tenancy afterwards. This is similar to fighting desperately with each other like cornered beasts. Why no more PRH flats are built? It is because Michael SUEN makes use of his 10 measures to benefit property developers.

Let us look at the situation. In discussing the wish of the elderly to have a place to live in, our Council circles around the notion of "business opportunities". Have you ever thought of how the Chinese word "business" (the pronunciation is "sheung" in Cantonese) is written? Now we are referring to "sadness" (the pronunciation is also "sheung" in Cantonese) of "excessive sadness". He is contributing to regrets and sadness of people.

Deputy President, in this Chamber, I know I do not have the ability to effect a change of the situation. As a person who is neither learned nor knowledgeable, I have no other options but to put forth facts that are easy to

understand. If we wish to look after the elderly, we must first crush the corrupted system of functional constituencies before we can have an opportunity to discuss the issue. *(The buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR LEUNG KWOK-HUNG (in Cantonese): Thank you, Deputy President.

MR TAM YIU-CHUNG (in Cantonese): Deputy President, so the abolition of Members of the functional constituencies will resolve the policy on elderly housing; or without property developers, the policy on elderly housing will be resolved. I really cannot link the two together.

Upon the establishment of the SAR Government, it had proposed the "three policies on the elderly", namely "giving the elderly a sense of security, a sense of belonging, and a sense of worthiness", as the working target in the future

(Mr LEUNG Kwok-hung stood up)

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG, what is your question? Is it a point of order?

MR LEUNG KWOK-HUNG (in Cantonese): No. I wish to seek an elucidation from him.

DEPUTY PRESIDENT (in Cantonese): Do you wish to seek an elucidation from Mr TAM Yiu-chung?

MR LEUNG KWOK-HUNG (in Cantonese): Yes.

DEPUTY PRESIDENT (in Cantonese): Please sit down. Mr TAM Yiu-chung, are you willing to elucidate?

MR TAM YIU-CHUNG (in Cantonese): No. I wish to continue with my speech.

DEPUTY PRESIDENT (in Cantonese): If you are not willing to elucidate, you may continue with your speech.

MR TAM YIU-CHUNG (in Cantonese): Deputy President, subsequently I took part in the work of the Elderly Commission, and the objective of the Commission is to promote the implementation of the relevant policies. The policy on elderly housing proposed by my colleague Mr LAU Kong-wah today is exactly the policy of giving the elderly a sense of belonging put forward by us back then.

Many years ago, the Government had conducted some statistical surveys on the housing preferences of the elderly. The findings indicated that among the families of the elderly, 14% wished to leave their existing units. About 80% of them wished to live in public renting housing (PRH) units, 17% of them wished to live in private housing or Home Ownership Scheme (HOS) flats, and the remaining less than 5% wished to live in residential care homes. The majority of the elderly families who wished to live in PRH units were those who were living in private housing. Due to their limited financial means, they could only live in some old buildings with low rental but poor environment. Moreover, they were always under the pressure of relocation or rental increase. Thus, it is necessary for the Government to continue increasing the supply of PRH units for the elderly, with a view to further reducing the waiting time.

Meanwhile, the Government should also devote its efforts to improve the living environment of the elderly. The Government should take the demographic changes into consideration in town planning, so as to avoid concentration of housing units for the elderly in remote areas, which will undermine the cross-generation integration. The Government should provide

explicit planning directions to property developers to include housing units for the elderly people and provision of sufficient facilities for the elderly in their property development projects. On public facilities and housing designs, the Government should expeditiously draw up some common designs for the elderly and barrier-free planning design guidelines. The construction industry should be encouraged to adopt the concept of the common designs, so that suitable changes can be made to the various facilities according to the ages of the residents to address their needs, thereby creating a barrier-free environment to facilitate integration of people of different ages and physical conditions in the community. This will enable the elderly people to maintain vigour.

As for the elderly people living in old districts, the Government has respectively launched programmes such as "Building Maintenance Grant Scheme for Elderly Owners" and "Operation Building Bright" in recent years to provide financial assistance to the elderly to repair and maintain their properties. However, since many elderly people live in buildings where management corporations are not organized, repair works are undertaken without guidelines and co-ordination. In many buildings, problems such as water seepage and spalling concrete have all along been unresolved, resulting in the deterioration of living environment. Thus, the Government should strengthen the management and supporting services of buildings in old districts, provide assistance to the organization of owners' corporations and implement repair works, so that the living environment of the elderly will be expeditiously improved.

Moreover, with respect to the place of residence, the Government should provide more choices for the elderly through an improved social welfare policy. Why should I say that? According to statistics, at present, there are 180 000 Hong Kong people who live and own properties in the Mainland. Statistical surveys have also revealed that among the Hong Kong residents living in the Mainland, 20% are elderly people aged 60 or above. With the gradual improvement of various social facilities in the Mainland, Hong Kong people living in the Mainland after retirement may become a trend. However, the social welfare policy of Hong Kong has strictly restricted the elderly's decision in choosing the place for retirement. One of the examples is the absence limit requirement of "fruit grant" often mentioned by us. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has fought for the removal of this limit over the years. Although the relevant limit has now been relaxed to

240 days, there is still a residency requirement. Thus, the elderly who have originally planned to reside permanently in the Mainland have to frequently travel to and from Hong Kong and the Mainland for fear that they have breached the residency requirement. I often receive a lot of complaints concerning this requirement. I hope the issue will be addressed as soon as possible, so that it will not be necessary for Mr WONG Kwok-kin to apply to the Court for judicial review.

Several welfare organizations have put forward to me a proposal of establishing elderly homes in the Mainland, so as to provide Hong Kong elderly people with cheaper residential care in a better environment. The utilization rates of these elderly homes are by no means high. In fact, the rate is relatively low. The main reason is the concern of the elderly people on health care the absence limit of "fruit grant" also affect them.

Just now I mentioned the proposal of "reverse mortgage schemes" put forward by my colleague Mr CHAN Kam-lam. As a matter of fact, I put forward this proposal to the Elderly Commission 10 years ago. But the Government considered it unnecessary to conduct any studies back then. I am happy that the Bauhinia Foundation Research Centre has put forward this proposal once again recently. I understand that there will be various difficulties with regard to financial measures. But since it was successfully implemented in Singapore last year, should we examine whether it merits further study and assess whether we should give it a try?

I hold that the Senior Citizen Residences Scheme undertaken by the Hong Kong Housing Society worth promoting. This programme is quite popular, especially among the middle-class elderly who have better financial means. It offers them with one more option. Thus, we think that organizations should be encouraged to adopt this mode in providing a living environment specially catered for the elderly.

I so submit.

MS CYD HO (in Cantonese): Deputy President, a number of proposals put forward in the motion of Mr LAU Kong-wah today are very similar to those in

the report published by the Bauhinia Foundation Research Centre. The Report entitled "Rethinking Housing for the Elderly" was completed in April 2010 and released in June. The Report targeted its study on those elderly people with a certain amount of assets. For instance, the minimum requirement of individual assets in the Senior Citizen Residences Scheme mentioned in the motion is \$1 million. The "reverse mortgage schemes" are financial arrangements catered for the elderly who own properties. So we can see that all these proposals require the Government's guarantee before they can be implemented. Moreover, other complementary measures, which involve land and public expenditure, are also required to be put in place.

(THE PRESIDENT resumed the Chair)

I understand that the sandwich class needs to be taken care of. This is particularly so with the sandwich-class elderly who do not have working capacity. They need to be looked after by society. Meanwhile, we must take into account that public resources should be spent on those who are most in need of help. Thus, I hope that in discussing these measures, we will consider how to strike an effective balance so that private resources can be used to achieve greater social impacts.

As a matter of fact, we are not only discussing housing programmes for the elderly. Due to the weird phenomenon of the Hong Kong society in which housing expense accounts for half of the public's living expenditure, we believe that once the housing problem of the elderly is solved, the entire issue of elderly services will be easily resolved. The arrangement of "reverse mortgage schemes" is a good proposal for elders who have some savings, own a flat in a very old building, but no longer have working capacity. The reasons are as follows: First, the elderly will be given a pension on a regular or one-off basis. Second, when the elderly passes away, the bank will be able to take possession of the property smoothly through business arrangements.

However, President, I would like to point out, when we are discussing certain policies, I really hope that our discussion is based on taking care of the elderly. We should base our discussion on looking after the sandwich-class

elderly, instead of discussing from the angle of taking possession of properties, making financial arrangements or introducing another financial product. We have to be very careful of not putting the cart before the horse.

The major problem faced by the elderly in Hong Kong is a lack of protection for their livelihood. At present, the universal retirement protection system is not in place. According to the information provided in the Thematic Household Survey Report — Report No. 40 released by the Census and Statistics Department in 2008, the median monthly expenditure of the elderly was \$2,500. Over 70% of the elderly had assets less than \$250,000, excluding the value of owner-occupied properties. Nevertheless, any elderly person in Hong Kong with an asset of only \$250,000 can hardly meet their very basic and humble monthly living expenses with the interests generated from the \$250,000, even if "fruit grant" is received, the amount is still insufficient. This is particularly so for those elderly with ill health and suffer from chronic diseases. Even if they are eligible for public medical services, they may have to spend a large sum of money on treatment by Chinese medicine practitioners, taking nutrients and vitamins, or transportation. That is why I hope that our discussion is based on the overall policy of taking care of the elderly; housing is only one of the major segments.

I agree that the Senior Citizen Residences Scheme undertaken by the HKHS is a desirable scheme. It has drawn reference from the mode of the elderly villages in Canada. These villages are equipped with recreational facilities, such as swimming pool and Jacuzzi. Services such as simple health care and home cleaning are also provided. I hope this mode can be extended to public rental housing (PRH) estates. Why can PRH estates not provide these services? As a matter of fact, the Social Welfare Department (SWD) is currently providing meal delivery and home cleaning services to the elderly. We can reserve units on the lower floors of each housing estate for the elderly, so that they will be concentrated in one area. This will enable the SWD to concentrate their resources for outreach services and save expenditure. At least the staff responsible for meal delivery and home cleaning services will know where their service targets live, so that they can provide service conveniently without having to make tiring journeys to various homes.

Moreover, after elderly units are set in PRH estates, I hope that canteens for the elderly can also be established for those elderly who are in good health.

Similar to daytime service centres for the elderly, these canteens allow the elderly to meet together and make friends, hence they need not stay in their unit all the time. This is an option we can consider.

On the other hand, the elderly owners of private properties in old buildings are those who are facing the greatest financial pressure. They have to pay for the building maintenance fees and cannot get into the social welfare net. They have to sell their properties first before they can apply for PRH after a period of time. This exerts a lot of pressure on them.

While we are talking about improving the living environment and the quality of life of the elderly after their retirement, we are wrecking their retirement plans on the other hand. Take the Urban Renewal Authority as an example. It can acquire properties of the elderly at unreasonably cheap prices for redevelopment purpose or for the construction of MTR networks, without making any desirable arrangements for them. The Government is really forcibly taking the properties owned by civilians with no regard for the retirement life of these elderly people, causing them great disturbance and harm, and bringing anxiety and misery to them.

Mrs Carrie LAM, the Secretary for Development, had also said that urban renewal involved the huge problem of taking care of the elderly. Thus, I hope that in discussing the issue of elderly housing, Members, political parties, and the Administration must not put the cart before the horse. We must not consider the factor of properties first. We have to resolve the issue of the retirement life of the elderly, which requires complementary measures on many fronts. Thank you, President.

MR TOMMY CHEUNG (in Cantonese): President, whenever we talk about housing problems, many people will think of soaring property prices and the difficulties of the mid thirties in buying a flat. However, the housing problem of the elderly also warrants our concern. With respect to the motion of "Policy on elderly housing" under discussion today, I understand that some "old buddies" wish to own a flat that suits their needs after retirement, that is, a flat at a convenient location with suitable supporting facilities, such as fitness centres, and simple health care or body check facilities.

This is particularly so when we are facing the ageing problem. In the next quarter of the century, that is, by 2036, our elderly population of those aged 60 or above will reach 2.74 million, a drastic increase of more than double the present figure. It is expected that there will be a surge of demand for housing by the elderly, especially the need of elderly residences that cater to the needs of senior citizens.

Thus, the Liberal Party has all along advocated that the Government should formulate a housing policy with an integrated and forward-looking approach that targets elderly people of different backgrounds, different strata and different needs. Moreover, various policies are required to complement the implementation of this policy.

Take the grass-root elderly as an example. While the existing allocation the public rental housing (PRH) flats for the elderly is acceptable, we have to plan for the future. According to the estimates of the Planning Department, in the next 10 years, Yau Tsim Mong, Tuen Mun, Tai Po, and Sai Kung are areas with the highest growth rate of the elderly population, at an estimated increase rate of 60 to 70%. To avoid aggravating the waitlisting situation, it is necessary for the Administration to provide for a rainy day by allocating more sites for the construction of PRH flats for the elderly in these areas.

As for the elderly with better financial means, they are forced to accept their situation. While they are not eligible for PRH, they cannot live in units under the Senior Citizen Residences Scheme administered by the Hong Kong Housing Society (HKHS) due to long waiting queue or their lack of financial means. As a result, they have no other options but to live in tiny units of old buildings.

Since applicants of the Senior Citizen Residences Scheme administered by the HKHS are required to submit proof of assets, pay a lump sum "entry contribution" in return for life tenancy, and monthly service charge, these residences are called the "residences for wealthy senior citizens". However, they are very popular. Only 570-odd units under the Scheme are available throughout the territory. Even with the additional 1 500 units to be available in Tin Shui Wai and North Point, the number of units and the districts where such service are provided will not be able to meet the demand. Thus, the Administration should encourage and support non-government organizations in

possession of land resources to develop elderly housing projects and lower the fees to an affordable level, so that more elderly people will be able to benefit.

Measures of increasing development density or offering incentives to attract developers to develop elderly housing projects may give rise to accusations of collusion between the Government and business or transfer of interests. It is also inevitable that "screen-like buildings" or "inflated flats" may emerge. The Administration must first allow society to forge consensus in this regard before implementation.

With respect to the proposal of introducing the "mixed use development", it is hoped that the proposal will advocate the concept of the elderly living close to the young, so as to build a society of mutual care and support. However, the Liberal Party is of the view that a more direct and effective approach is to work on the existing incentive of granting tax allowance to those who support their parents/grandparents or live with them. The Government should consider relaxing the present requirement of living with one's parents in the same unit, to living with one's parents in the same housing estate or building. This measure can encourage the younger generation to live near their elderly parents to take care of them, and the effect of splitting household can also be achieved.

President, as for the proposal of "reverse mortgage schemes" and "elderly housing insurance schemes" which are unfamiliar to Hong Kong people, it is imperative for the Government to conduct feasibility studies. This is particularly so with the concept of "reverse mortgage schemes", under which an elderly person asks a bank to take his property as a security; and in return the bank will give him a monthly payment to meet his living expenses. When he passed away, the bank will take possession of the property. As the Chinese are accustomed to leaving their properties to the next generation, it is advisable to study carefully whether this concept will make this scheme unpopular, and whether the monthly payment will be able to meet the living expenses of the elderly. For instance, according to the estimate of the Bauhinia Foundation Research Centre, the applicant will only be given a monthly payment of \$1,000 to \$2,000 for every \$1 million-value of his property. We can imagine how attractive such an offer is. If the banks increase the monthly living expenses of the elderly under the "reverse mortgage schemes", will the banks suffer losses? Careful planning is required.

Finally, I would also like to talk about "fruit grant" and the absence limit of the elderly CSSA recipients. If the elderly are not required to give up welfare benefits in Hong Kong, they can live at ease in the Mainland cities. This not only improves the quality of life of the elderly, but also alleviates local housing demand, releases more places in residential homes and saves other public resources. Thus, it is still cost-effective to spend an additional amount of public money, which can create a win-win situation for both the elderly and the overall society of Hong Kong.

As for the amendments of the other two Members, the Liberal Party is there one or two Members now? I have forgotten. Has one of the Members withdrawn the amendment? We still have two Members. Regarding the amendments of the Members, the Liberal Party is basically in favour of them.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): President, I will vote in favour of the original motion proposed by Mr LAU Kong-wah and the amendments put forward by two Members. The original motion and the two amendments have covered the areas of housing and social welfare. Unfortunately, only the Secretary for Transport and Housing is present today, officials of the Labour and Welfare Bureau are absent. This is a drawback. I hope that after listening to our views, the Secretary will discuss the part regarding social welfare with Secretary Matthew CHEUNG to see how they can respond to the views put forward by us in today's motion debate. I have much confidence that today's motion and the two amendments will be passed unanimously by Members.

President, as a matter of fact, the policy on elderly housing and the policy on elderly social welfare are inseparable. In respect of the policy on elderly housing, the original motion and the amendments have covered many aspects. I do not have time to speak on my views one by one. All in all, I wonder if the Secretary would accede to my request of conducting a comprehensive consultation and review of the policy on elderly housing.

Recently, the Government, and the Secretary in particular, has been promoting the review of subsidized housing policy. I would like to call on the Government to conduct a consultation on the policy on elderly housing, and based on this consultation to conduct a comprehensive review. What is the merit of this move? It will ensure that we do not take one step at a time or make piecemeal efforts to patch things up. If we have the chance to listen to the views of the elderly throughout the territory, listen to the views of the middle-aged people who will become the elderly, and listen to the views of the young people, the Government will be able to have a comprehensive picture of the views of the public. With a continuously ageing population in Hong Kong, we need a responsible government to formulate a sound, feasible, step-by-step, and workable policy on elderly housing. Thus, I hope that when the Secretary speaks later, she will proactively respond to my request, which will enable the government departments responsible for decision-making to assess the problems put forward by the original motion and amendments today, and identify feasible solutions.

President, now I would like to focus on why we must conduct this comprehensive review. Our colleagues have mentioned that due to consumer prices, level of rent, and even property prices, many elderly people find it difficult to spend their old age in Hong Kong. Instead, they have to spend their twilight years in the Mainland. But this involves the portability of welfare benefits, including "fruit grant" and CSSA. I am of the view that this situation needs to be thoroughly studied. In fact, this is also mentioned in the amendments.

The Hong Kong Federation of Trade Unions has received many complaints. We are now helping these elderly people apply for "fruit grant". If their applications are not approved, we do not rule out applying for leave to apply for judicial review. These problems need to be resolved. For instance, Mr LAU Kong-wah has mentioned the Senior Citizen Residences Scheme undertaken by the Hong Kong Housing Society (HKHS). In my opinion, this Scheme is most suitable for the middle-class elderly. Unfortunately, the number of units under the Scheme is not enough to fully meet the demand of the elderly. Thus, how to support the HKHS to further develop this Scheme in terms of land and resources merits the Government's consideration. I believe it will be difficult to further expand the Scheme if we rely on the HKHS alone to fight the battle.

Furthermore, I would also like to talk about the Government's existing policy of public rental housing (PRH). The Government still refuses to resume the Tenants Purchase Scheme, a move that prevents the elderly — particularly the elderly people who live in PRH — from being taken good care of by their grown-up children, which is regrettable.

At present, residents of PRH are often affected by the so-called "well-off tenants policy" implemented by the Government. When their children go to work, the household income will exceed the specified limit, and they have to pay 1.5 times or double the rents if they refuse to move out. This measure has inadvertently forced grown-up children to move out of PRH flats, leaving the elderly in the estates. We find a very undesirable phenomenon at the PRH estates now, that is, the older estates have become "housing estates for the elderly". In fact, this is not healthy at all as many social problems are concentrated in these estates.

I have listed a series of problems just now. As a matter of fact, I do not have time to talk about many other problems. I hope that the Secretary will, in collaboration with the Labour and Welfare Bureau, conduct a thorough review of the policy on elderly housing.

Thank you, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, I believe all who are present, including the Secretary, had read or heard about the following saying in *The Book of Rites*: "The elders can lead a peaceful life in their twilight years, the adults can be employed for their capability, and the youth can grow in body and in mind. Widows and widowers, orphans and the childless, the ill and the invalid are all well taken care of." But have you, as caring and benevolent officials, engraved these words in your heart?

For the elders to lead a peaceful life in their twilight years, it is imperative for us to offer them with stable and comfortable residences. According to the statistics of the Society for Community Organization, at present, throughout the territory of Hong Kong, about 100 000 people are living in roof-top accommodation, caged homes, and partitioned flats with extremely poor living condition. Among these people, about 20% are elders. In other words, after

toiling for several decades, some 20 000 elders can only reside in tiny rooms of less than 10 sq ft before they pass away.

Moreover, the destinies of some frail elders who require a high level of care are just as miserable. Last year, a total number of 4 500 elders passed away while waiting for residential places in subsidized nursing homes and residential care homes for the elderly. It grieves us to learn that the Government does not think something is wrong with this. I really cannot believe there is such misery behind the glamour of the bustling metropolis of Hong Kong.

The ageing problem is becoming serious in Hong Kong. At present, there is, on average, one elderly person in every eight persons. After two decades or so, that is, by 2033, there will be on average one elderly person in every four persons. Thus, if the Government does not formulate a comprehensive and long-term policy on elderly housing as soon as possible, it will certainly be more difficult to solve the problem in several years' time.

According to the Government, one of the major reasons for the long waiting time for elderly residential places is because the elderly wish to live in institutions located in the same district or in the neighbourhood of their families. However, should the Government ask itself and review whether it should, in planning the use of land, reserve an area in every district for the construction of residential care homes? I think the Government should review comprehensively the present and future demand of places in residential care homes for the elderly in the 18 districts, with a view to reserving land for the construction of residential care homes or elderly housing projects, instead of just rehousing the elderly in remote areas.

Governments in our neighbouring cities, such as Singapore, have taken actions to encourage children to take care of their parents by providing concessions in property prices to those who move to places near to their parents' residence or live with the parents. There are evidences of an increasing number of married children living with or near their parents. Although the Government is currently providing additional tax allowance for children living with their parents, I believe the practice in Singapore will all the more generate a direct effect.

In recent years, the Government has been promoting the policy of ageing in the community. But obviously, up until now, a trend has not been set in society. Thus, I would like to repeatedly call on the Government to consider providing cash allowances to home carers. The Government had earlier indicated that home carers were discharging their family responsibilities, a role irreplaceable by the Government. As such, the Government would only provide support services, but not cash allowances.

Then why are so many western countries actually willing to implement the system of cash allowances? Is it because our Government is not serving the general public? If the Government is not willing to serve the people from the heart and take care of their needs, why does it not look at the issue from a mercenary perspective. Take the United Kingdom as an example. It is estimated that home carers have helped the government save 8.7 billion pounds a year (equivalent to HK\$100 billion) in welfare expenditure. I wonder if our Government will be convinced by this figure.

I feel disappointed each time we have debates on various issues with government officials in the Legislative Council. Each time the Government's reply is, "We have done this, and we have done that". Indeed, the Government has turned a blind eye and a deaf ear to the blind spots of its policies as well as the criticisms of the Legislative Council.

In raising questions and moving motions in this Council, we are not asking the Government to explain once again, or play the role of "human flesh recorder" once again, saying how good and sound the existing services are; or identifying a large number of reasons to point out how our proposals are not feasible, and what kind of difficulties they will encounter upon implementation. I hope the Government will genuinely respond to our aspirations this time; and in the face of the future needs of the elderly, it will try to resolve the problems in a pragmatic manner.

President, I so submit.

MR CHAN KIN-POR (in Cantonese): President, I am very grateful to Mr LAU Kong-wah for moving this motion on "Policy on elderly housing", and several Members for proposing amendments.

As a matter of fact, the spirit of the entire motion is not only to raise public concern about the fundamental housing need of the elderly, and the need for the Government to take concrete measures in implementing the policy on elderly housing, so that the elderly can live in dignity; a deeper implication of the motion lies in the concept that, we, as children of our parents, should consider the element of filial piety in reviewing the policy on elderly housing, and moreover, we should, through various government policies, encourage children to look after their parents or even live with them, so as to enhance the concept of morality and social harmony.

As an old Chinese saying goes, "Filial piety is the virtue held above all else". Showing filial obedience to parents is something every child must do — a deed more important than anything else. Parents have experienced great hardship in raising their children, they will feel very miserable if their children are not by their side when they approach the final stage of their lives.

As a matter of fact, many countries such as Singapore and Taiwan have put in place legislations to protect the rights of the elderly by requiring children to support their parents. With the ageing population in Hong Kong, the proportion of the elderly to the total population is increasing, giving rise to various social problems that range from housing to health care as well as integration into society. The Government will have to face all these problems in the future.

I believe enactment of legislation to require children to look after their parents is not the best option. The Government should encourage children to look after parents through different policies, such as increasing substantially the tax allowance of children who live with their parents.

Regarding the design of public housing estates, a diversified approach can be considered. For some families, two, three or even four generation may live under the same roof. It may be necessary for the Government to make some adjustments in the design of public housing estates as well as the administrative measures.

For instance, in constructing public housing estates, we may have larger units or some units with appropriate partitions, so as to encourage families of

several generations to live together. Of course, when these families have drastic changes in the number of their members, they should surrender these "super units" to the Government to be allocated to other families.

Some young couples, or even elderly couples, wish to have their own space and privacy, but they also like to see their parents or children frequently. Thus, the Government should develop a new mindset and adopt innovative methods. Children and their parents can be arranged to live in the same estate or even on the same floor as much as possible. The Government should make its best effort to help these families, by arranging them to live under the same roof or near each other, in accordance with their needs. Just now Mr CHEUNG Kwok-che mentioned what the Singaporean Government has done in this regard. Although we may not like the political environment or practice of Singapore, we often find foresight in many of its policies. Given that the Singaporean Government attaches great importance to family cohesion, they have all along adopted traditional family values as the essence of the entire public housing policy. With respect to housing policy, the Singaporean Government has advocated the concept of "keeping the distance of a bowl of soup". This concept is put forward by a Japanese academia specializing in the welfare of the elderly. It means that when children bring a bowl of soup to their elderly parents' residence, the soup is still warm when they arrive. This implies that the children have to live near their parents, otherwise the soup will be cold. Thus, the Singaporean Government has introduced many incentive policies that facilitate children in looking after their parents. For instance, a three-generation family that intends to live under the same roof will enjoy the priority for flat allocation when they apply for Housing and Development Board (HDB) flats. Families that intend to live near parents or children will be subsidized by the Government when they purchase HDB flats if they live within the distance of two kilometres.

According to the HDB household survey published by the Singaporean Housing and Development Board in 2008, about 8 000 families of Singaporean citizens or permanent residents were interviewed. The findings revealed that for every 10 young Singaporean couples, about four couples chose to live with or near their parents.

The survey also revealed that young couples who chose to live with or near their parents had risen from 29.3% in 1998 to 35.5% in 2008. This indicated that while many young families wished to have their own independent homes, they were unwilling to live far away from their parents, so as to maintain a close family relationship.

Unfortunately, in Hong Kong, despite the fact that many Members had put forward proposals in the Council, ranging from those on policies to designs, the Government has not only failed to encourage the younger generation to continue living with their parents, but has also indirectly encouraged children to advance the time of moving out of their parents' homes and living independently.

When young people move away from their parents and families to some developing new towns, they will have to face a completely new environment. When they have to face work pressure and social pressure without the support of parents, families and friends, domestic problems and tragedies may occur.

On the other hand, the elderly may have to live in residential care homes since their children are not around to take care of them. This may have adverse effects on the psychological and physical well-being of the elderly and create various social problems. In the end, the society has to pay a higher price.

It is the right time for us to conduct a review of the policy on elderly housing and revise the policy. It is even more important for us to ponder the meaning of "a home" to the elderly as well as the young people. A home does not merely satisfy our basic daily needs. More important still, a country is made up of families and individuals. If our families do not have cohesion, how can we bring cohesion and harmony to society?

With these remarks, President, I support the original motion and other amendments.

DR JOSEPH LEE (in Cantonese): President, the subject we are discussing today is how to formulate a long-term and desirable policy on elderly housing. Just now many Members have mentioned that by 2033, it is estimated that there will

be on average one elderly person in every four persons in Hong Kong. The ageing problem has brought many urgent needs. In formulating an effective and long-term policy on elderly housing, we have to take into account the following points.

The first point involves land planning. I believe Members will agree that in planning land development, it is desirable to reserve land for the construction of housing estates for the elderly. However, the Administration must be careful in its planning. Given that Hong Kong is a small place with a large population, there is no reason to allocate high-priced land for such purpose. Hence, the Government may have to allocate lands in remote areas to construct housing estates for the elderly. It should be noted that when the elderly are allocated housing units in remote areas, complementary facilities such as transportation are equally important. Allocation of units in remote areas may mean lower rent, more comfortable and bigger living areas, but families and friends may be reluctant to visit them. I had jokingly said there would be dire consequences if the housing estate for the elderly has turned into a concentration camp. Thus, the units must be located in areas where transportation is convenient so that they will not be isolated from society and the outside world in terms of social life.

Secondly, even if the elderly live in remote areas, they should be provided with complementary medical and health care facilities. It is undeniable that health deteriorates with old age. They often need medical treatment or follow-up consultations. It will be inconvenient for them if they live far away from hospitals. Thus, a balance must be maintained in land planning. Good complementary facilities must be put in place in remote areas so as to attract the elderly. Apart from the provision of supporting transportation facilities, it is important that the elders enjoy living in their estates. The Government should also invest resources in the construction of community centres with a view to providing better recreation facilities. Thus, the Government should note that its work does not stop once the land has been allocated.

With regard to the construction of housing estates, the Hong Kong Housing Authority (HKHA) had once developed housing projects for the elderly. However, the projects failed. The elderly are generally required to share a unit and communal kitchen facilities. Since these elderly people do not know each

other, sharing a unit often leads to disputes and unnecessary arguments. Thus, the Government's scheme of public housing flats for the elderly is a failure. I understand that the HKHA is attempting to address these problems. Under such circumstances, it may be necessary for the Government to consider whether more self-contained flats should be built. Of course, construction of self-contained flats may mean higher costs and reduction of land resources to be provided. Therefore, the Government may have to consider other modes which are more desirable. For instance, children of many elderly tenants have grown up and have moved out of the PRH flats. On asking them to transfer, the HKHA can provide them with more desirable self-contained flats, so that they will be transferred to other PRH flats, and vacate their unit. Such a move will also shorten the time for applicants on the waiting list to be allocated with PRH flats. The Government may consider this measure.

Moreover, the HKHA has also launched a number of schemes that promote mutual care between the elderly and the young, such as the Elderly Persons Priority Scheme and the Special Scheme for Families with Elderly Persons. These schemes are well-intentioned, hoping that young people will live with or near the elderly, yet many restrictions are imposed. As these Schemes have been launched for many years, it is high time for the HKHA to conduct a review to examine whether the restrictions have discouraged the young people; and whether there are too many barriers, causing inconvenience and reluctance of young people to live with the elderly. Under these circumstances, the ideal schemes formulated by the HKHA cannot be put into real practice; and in implementation, the barriers and bureaucratic red tape have discouraged children of the elderly. I hope that reviews of these schemes will result in providing more options for the elderly and their children, with a view to achieving the objective of promoting mutual care between the elderly and the young.

Apart from public housing estates, there are also private properties. Some colleagues have mentioned the provision of tax allowance to those who live with the elderly. For those who wish to live with the elderly in private properties and not public housing estates, will the Administration consider offering additional tax allowance when they buy new homes, such as exemption of stamp duty, or increase the amount of allowance? At present, the tax allowance offered to those who live with the elderly is not very attractive. Will the Administration

consider increasing tax allowance in this regard? When we talk of increasing tax allowance, the Government will think in terms of money and the possibility of a decrease in revenue. It will then consider whether this is feasible. However, if we have good policy intent, it is advisable to maintain a balance so as to offer encouragement. Tax allowance can be used to attract children living in private properties to live with their parents.

Other considerations include the issue of housing for the middle class. I learnt that the HKHS has recently launched the Jolly Place and Cheerful Court. We call these units "residences for wealthy senior citizens". The intention of these housing projects is good, as the elderly can have a lease-for-life occupation right of the unit, and the housing estate is located in convenient areas, complemented with good facilities. These residences for wealthy senior citizens have attracted many elderly people to move in. It is hoped that the Government will help the HKHS and even private organizations to develop this kind of estates. In the past, this so-called middle-class elderly are often neglected by the Government. As they have some assets, they are not eligible for either CSSA or PRH flats. The Government just leaves them to solve their own housing problems. They are afraid of using up their resources, they are reluctant to buy a flat with their limited asset as they are getting old, and if they rent a private flat, they have to face the problem of frequent rental increase. Thus, I hope that the Government will step up efforts in this regard so that residences for wealthy senior citizens such as those administered by the HKHS, can provide an option for the elderly. These elderly can have a place to live until they pass away. I believe the Government must bear this in mind.

Moreover, regarding the issue of living in the Mainland, we are not encouraging the elderly to live in the Mainland, but if they must return to the Mainland and live there because of financial and other reasons, the Government will have to review the absence limit of the Old Age Allowance and "fruit grant", an issue which are under discussion recently. The Government should provide convenience to the elderly and help them lead a happier life in the Mainland. Apart from this, residential care home is an important part of housing policy. As a matter of fact, there are many problems in the existing policy of residential care homes. Coincidentally, Secretary Matthew CHEUNG is not in this Chamber at the moment. I hope the Government will further review the existing policy of

residential care homes, so that the elders in need can live happily in care homes for the rest of their lives.

With these remarks, President, I support the original motion and other amendments.

MR IP WAI-MING (in Cantonese): President, as Mr LAU Kong-wah pointed out at the very beginning, the debate on constitutional reform has now come to a break, should we start paying attention to the livelihood problems, or focus our effort on solving these problems?

Many Honourable colleagues have also talked about this issue today. We are actually a bit disappointed, wondering why Secretary Matthew CHEUNG is not in attendance. It is because we think the discussion of the policy on elderly housing not only involves the policy on housing, but also on social welfare.

President, the issue of elderly housing under discussion today has, in our view, actually reflected the inadequacies of the Government's effort in the area of retirement protection in the past, or the slip of a golden opportunity to address the issue of retirement protection 10-odd years ago.

Therefore, we really hope that the Government will listen to the different views of Members, as well as similar views voiced by Members today. The Government should seriously listen to us, with a view to mending the fold and introducing more measures to help the elderly spend their twilight years.

Some Honourable colleagues have mentioned just now the housing issue of the wealthy or the middle-class senior citizens. In fact, why is retirement protection so important? I met some elders at the residence for wealthy senior citizens developed and constructed by the Hong Kong Housing Society. In our eyes, these elders belong to the middle class or above, and they have some savings and assets of their own, or else they cannot live in the residence for wealthy senior citizens. However, these elders are actually quite cautious with their daily expenses or living plans after they move into that flat, and they are also uncertain about their future life. In fact, many of these elders whom I met are quite learned. Some of them were doctors and professors before they retired.

There are many of such people. Although they live in the residence for wealthy senior citizens, they still worry about their living. If retirees of the middle class or above have concerns about their living, what about the grass-root elderly?

According to statistics, of the 1.18 million elderly people in Hong Kong, 80% are not provided with any retirement payment or pension; at the same time, 80% of the elderly wish to age at home and do not want to live in homes of the aged, and close to 60% have an asset of less than \$50,000. One may well imagine how important retirement protection is to the elderly. Over 10% of the elderly have to work for their basic living in their twilight years.

President, the average life span of the Hong Kong population is getting longer and longer. It is estimated that by 2036, the average life span of women is 86 years while that of men is 80 years. Hence, how should we provide a larger number of retirees with living protection in future? The Government stresses on the provision of the three major pillars, namely the Mandatory Provident Fund, CSSA and personal savings. However, from practical experience, we consider these three major pillars unreliable in reality. They practically fail to provide the elderly with good retirement protection.

Therefore, arising from the issue of elderly housing is the universal retirement protection scheme. The Federation of the Trade Unions (FTU) has been aspiring that the Government will give serious consideration to the implementation of such a scheme. At present, the Government has set up various barriers, causing inconveniences to the elderly in their application for social welfare. As we stressed last time, even if the elderly wish to live in the Mainland, the Government will not give permission. The FTU is now doing some work in this respect. We also hope that the Government will take the initiative to provide some convenience for the elderly in this regard.

Regarding the provision of suitable support for elderly housing, the Government must draw up complementary plans. At present, under the Harmonious Families Priority Scheme, people can apply for PRH flats under the Housing Authority. We think this policy helps encourage young people to live with or close to their elderly parents. However, we have all along doubted whether a single scheme is enough to provide protection for the elderly. Presently, Secretary Matthew CHEUNG promotes the policy of ageing in the community, in the hope that children will take care of their elderly at home.

This is, in fact, a good idea because it may reduce the Government's expenditure on residential care homes. And yet the Government has still refused to spend a single cent on it.

As the elders age, their health conditions will most probably deteriorate. Many children or family members actually have to quit their jobs to stay home to take care of them. We have been striving for the provision of carer allowance or ageing in the community allowance for carers who stay home to take care of the elderly. However, the Government has been unwilling to respond so far. Actually, similar schemes have already been implemented in Britain and Australia. Why does the Hong Kong Government still refuse to put the schemes in place? Perhaps the Government is reluctant to provide cash allowance, but can it consider offering concessions for rentals? At the same time, we hope that if arrangements can be made for the elderly and their children to live together, the Government will provide these families with carer training and psychological support services. We think that the access to financial, training and psychological support is of paramount importance.

President, with these words, I support the motion and the various amendments.

MR RONNY TONG (in Cantonese): President, the motion today revolves around the Government's so-called "ageing in the community" policy. The proposals of many Honourable colleagues are in great detail. Some even raise the points as whether elderly housing should have self-contained kitchens, whether the size of toilet is too small, whether the floor is paved with non-slippery tiles, whether automatic doors should be installed, and so on. All theses are in great detail.

President, my concern is about the more macroscopic issues. I very much agree to what IP Wai-ming said earlier. Many of his comments are what I wish to say today. I totally agree with him. President, which Secretary is appointed by the Government to respond to this motion today can reflect the focus of attention of the Government on this issue. I do not mean Secretary Eva CHENG should not be present today. However, like Mr IP Wai-ming, I actually all the more expect Secretary CHEUNG to attend the meeting to give us a response.

President, we are facing two indisputable facts that should not be ignored. First, Hong Kong is fortunate to be the place with a population having the second longest life span on average in the world, coming second just after Japan. The average life span of Hong Kong people is as long as 82.2 years. Recent figures of the Government show that the average life span of women in Hong Kong is 86.1 years while that of men is 79.8 years. Second, a consultancy report of the Government reveals that of the some 70 000 elderly persons currently living in residential care homes, 75% receive CSSA payment. Mr IP Wai-ming also said earlier that actually 80% of the elderly did not have any old age allowances to help support their living.

We can see from these two facts that the elderly problem is a long-term issue. Regarding the figure I quoted earlier that 75% of the elderly are now CSSA recipients, the situation will only aggravate as the problem of wealth gap is getting increasingly serious at present, absolutely no improvements have been made over the past years. I am afraid this figure will increase steadily. In other words, will the idealistic so-called "ageing in the community" policy manage to cope with the problems faced by the elderly, our largest social group, in the long run?

President, many people (including my assistant) view this policy with a very critical attitude. According to them, if this so-called "ageing in the community" policy is implemented to meet the challenges of the long-term problem of an ageing population in 2030 (or the next 20 years), it is perhaps an over-simplistic approach. If this policy serves as a curved solution to ease the continuous insufficient care and attention places provided by the Government for the elderly, I think it can hardly convince the organizations which have shown long-term interests in elderly services, as well as Honourable colleagues in the Legislative Council.

In fact, at the public hearing held earlier by the Legislative Council Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly, an elderly organization clearly explained to us why they disapproved the so-called "ageing in the community" policy proposed by the Government. How did they view this policy? They regarded the policy as "a fabricated excuse to stop the cash flow", meaning that the Government only intended to take the short cut and shirk its responsibility, instead of allocating additional resources to look after the elderly, whom I mentioned earlier, in need of care.

Besides, the Government has proposed the allocation of funds for the implementation of carer training programme, thinking that the problem will be solved by training the carers how to take care of the elderly. Many elders told me that government officials seemed to fit in with the comments of President JIANG Zemin, that is, too simple and naïve. It is no easy task to take care of an 80-year-old. It is absolutely impossible to solve the problem by simply providing some sort of training. President, the Government's consultancy report also points out that despite ongoing medical progress, the natural physical deterioration of the human body cannot be completely prevented. Moreover, over 70% of the elderly have one or more chronic illnesses. In fact, it is quite difficult for the over 70 000 elderly persons living in the community to carry out daily activities. President, all this information is directly quoted from paragraph 21 of the Government's consultancy report.

Hence, we cannot simply say, if the Government provides certain services, the problems faced by the elderly who choose to live in the community will be solved. Besides, the same consultancy report also points out that elderly people (or their family members) choose the option of residential care home mainly because they have suffered from a stroke, dementia or some sudden illnesses. And, their condition cannot be improved simply by the loving or total care of their family members. Besides, many workers of Hong Kong are "living from hand to mouth", how can they stay home to take care of the elders?

President, this is an old problem, but it seems that all along no solutions can be found. We think the solution is actually quite simple. No clever talks or catchy phrases are necessary. President, we think that only by working on two areas can we truly face or even resolve this problem.

First, it is the allocation of additional resources. Our Government has sufficient financial means and resources to truly look after our elderly. Second, it is the more urgent task of establishing a universal retirement protection scheme. This proposal has been under discussion for years. The longer we fail to put this scheme in place, the further and further away we are from the environment where the elderly can receive attentive care.

PROF PATRICK LAU (in Cantonese): President, I strongly support the motion on "Policy on Elderly Housing" proposed by Mr LAU Kong-wah. It provides us with an opportunity to urge the Government again to show concern for the housing need of the elderly. I moved a motion on "Elderly Housing Policy" in April 2008, which was also passed by all Members of this Council. I gave many reasons at that time to request the Government to formulate the relevant policy as soon as possible. It is a pity that two years have passed and the Government has only responded to some of the requests, with little progress made in the formulation of a long-term policy on elderly housing.

Hence, the present elderly housing schemes are implemented in a fragmented manner, lacking in overall consideration and sustainability. At present, apart from the provision of lease-for-life rental housing for the elderly, where strict assessment is necessary, by the Hong Kong Housing Society (HKHS) in Tseung Kwan O and Jordan Valley, plans for developing elderly housing at Tanner Hill in North Point and Tin Shui Wai are underway. I was informed by the HKHS of the above news after the passage of my motion in 2008. However, it seems that the implementation of these schemes is still not enough. Therefore, there are other schemes, such as the mixed development elderly housing in Shau Kei Wan, and the Urban Renewal Authority's pilot elderly housing project in Sham Shui Po, under which flats at an estimated price of \$5,000 per sq ft will be sold. As the Government has not provided any concessions for land grant, the present elderly housing can only be leased or sold at the market price, thus failing to address the needs of grass-root elderly people. These schemes provide a total of over 2 000 flats, but it is not certain whether other elderly housing projects will be developed.

President, in fact, the former Governor Chris PATTEN introduced elderly housing schemes as early as 1980s. As an architect, I participated at that time in the design of a large number of residential care homes for the elderly. Such facilities were already in demand at the time. A problem arose then, the elderly hostels built by the Hong Kong Housing Authority (HKHA) — I actually paid visits to such hostels — were not popular because of their design of shared kitchens and toilets. Subsequently, the construction of such hostels has been suspended since 2000. To encourage the co-residence between the elderly and their children and family members, the HKHA has introduced five priority public

housing policies. President, as a member of the HKHA, I also find these policies loaded with other restrictions, as mentioned by many Members earlier.

In my view, most importantly, in the absence of a clearly-defined policy on elderly housing and a long-term planning of the HKHA in the building of public rental housing for the elderly, and in the face of an ageing population, an increasing number of grass-root and middle-class elderly people cannot resolve their housing need.

President, apart from housing need, many elderly people also need other special care to attend to their medical, ageing and illness problems, as mentioned by many Members earlier. Hence, many elderly people choose to stay in residential care homes for the elderly, resulting in the increasingly serious problem of insufficient places for a long period of time. In 2008, over 23 000 elderly people were waiting for places in residential care homes and nursing homes, and over 3 800 elderly people passed away while they were still waiting for these places. In recent years, although the policy address and budget have allocated additional resources to increase the number of residential care places, the rate of increase fails to catch up with the rate of ageing. At present, the waiting list for such places is even longer than that in 2008, with a waiting period of three years. In 2009, as many as 4 500 elderly people passed away before they were allocated a place.

These figures are deeply saddening. I hope that apart from speeding up the construction of the five residential care homes for the elderly in the coming three years as promised in the policy address, most importantly, the Government should make good planning to meet the surging demand for residential care places in the future, as well as introduce expeditiously corresponding measures to provide home care services for the elderly people on the waiting list. I agree that the Government should provide additional incentives to encourage more social enterprises to offer diversified options for putting the concept of ageing in the community into practice, so as to meet the actual needs in society.

President, regarding the formulation of a comprehensive policy on elderly housing, my sector has offered many suggestions worthy of consideration. They have stressed that the most important point is to provide more low-priced land for

non-profit-making organizations such as the HKHS to build affordable elderly housing.

Academics in The Chinese University of Hong Kong who specialize in studying the policy on elderly housing have suggested the formulation of a comprehensive land policy. Through the exemption of the total floor area, the element of elderly housing can then be integrated in projects in progress, so as to ensure a sustainable and healthy development. I agree to this point of view. Therefore, we should make more effort in respect of planning. A few years ago, the HKHA made reference to the "two generation home" in Japan, that is, the elderly live with an ordinary family, with a view to establishing mutual care between the elderly and the young. I also hope that the Government will consider ways to encourage the banking and insurance sectors to offer financial plans such as the "elderly housing insurance scheme" and "reverse mortgage scheme".

Lastly, I hope that apart from providing the hardware of constructing elderly housing, most importantly, the Government should also consider providing the software of home care services, especially to provide service to some hidden elderly people living alone. I think that the policy on elderly housing should include the comprehensive planning of health care services. Thank you, President.

MR JEFFREY LAM (in Cantonese): President, there is an old Chinese saying "People raise children for their old age". However, with the changes of times and of the demographic structure, an increasing number of elderly people can no longer rely on the support of their children and family members due to various reasons. As the saying goes, "Extend the respect of the aged in one's family to that of other families.", apart from showing filial piety to the elders in the family, the Chinese will also be considerate, showing concern and taking care of every senior citizen who has made a significant contribution to society.

In this respect, the responsibility to be borne by society will be increasingly heavy. At present, there are around 1.2 million elderly people aged 60 or above in Hong Kong. The Government has estimated that by 2036, this figure will

surge to close to 2.74 million. The present ratio of one elderly person in every eight Hong Kong people will then rise to one in every four Hong Kong people.

Hence, it is not enough to solely rely on the "welfare net" of the Government to take care of all elderly people. Neither is it the best way. It is necessary for our Government and society to think of more innovative ideas to meet the challenges of an ageing population in future, so that all elderly people can enjoy their twilight years in comfort.

President, in my view, the "reverse mortgage" scheme raised in the original motion is worth studying and considering to be implemented by the authorities. At present, a large number of old retirees own a property. However, "a property in hand" cannot bring them any income. If they lease the property, they have to find a place to move, leaving the residence and community they are familiar with.

"Reverse mortgage" enables the elderly to use their own property to take out a loan from the bank. They can get the payment on a one-off, yearly or monthly basis without having to worry about immediate loan repayments, so that they can have the cash to meet their living needs or improve their living condition. Moreover, the elderly can continue to live in the property until they pass away. Then the lender will recover the property for the repayment of the loan.

At present, there are no "reverse mortgage" products offered in Hong Kong. However, such schemes are available in the United States, Britain, Australia, New Zealand and Singapore, with retirees as their major service target. As the population ages, it is believed that "reverse mortgage" will certainly be in demand locally.

A study conducted by the Business and Professionals Federation of Hong Kong in 2008 found that around 400 000 property owners aged over 50 did not have a mortgage. Among them, 120 000 people were not living with their children, and close to 70 000 people were over 65 years old, living alone with a low income. "Reverse mortgage" can then satisfy their needs.

However, as the borrower does not need to repay the loan until they pass away or voluntarily move out of the property, the risk of "reverse mortgage" is higher to the lending institution than that of mortgage in general. It is thus

necessary to set up a financial buffer mechanism to share the risk of the bank. President, as far as I know, the Hong Kong Mortgage Corporation Limited is now studying the feasibility of and demand for "reverse mortgage" in Hong Kong. At present, the Corporation has provided mortgages for over 70% of the property. In my view, if "reverse mortgage" is to be introduced in Hong Kong, the Corporation can take up the role of an insurer.

Apart from the provision of "reverse mortgage" by the market, consideration can also be given to applying similar mode to the government-subsidized Home Ownership Scheme (HOS) flats. For instance, the Lease Buyback Scheme introduced by the Singapore Government last year aimed to buy back by the Government "Housing Development Board flats" owned by low-income elderly people aged over 62. These elderly people do not need to move out of the flat within a period of 30 years and they are paid a certain amount every month. If these elderly people pass away before the expiry of the 30-year period, their spouse and children are allowed to go on living in that flat until the expiry date.

The Hong Kong Government might as well examine whether similar schemes such as "reverse mortgage" can be applied to the HOS flats. This measure can help the elderly living in the HOS flat and the HOS flats recovered can also be resold by the authorities. We believe this can help, to a certain extent, revitalize the HOS market.

President, I so submit.

DR RAYMOND HO (in Cantonese): President, the recent focus in the city is the housing issue of the "post-80s" generation. However, the housing issue of the elderly has not received similar attention. An ageing population is a very serious problem faced by Hong Kong. It is estimated that by 2036, 27 out of every 100 people in Hong Kong, that is, over a quarter of our population, will be elderly people aged over 65.

To solve the problem of elderly housing, we must first understand that the elderly may have different housing need due to different financial consideration and family composition. Regarding financial consideration, the housing need of

the grass-root and middle-class elderly people may not be the same. Regarding family composition, an increasing number of elderly people do not live with their married or even single children, particularly if their financial condition permits. Unless the situation goes in a reverse direction, it is believed that this trend will continue. Therefore, the demand for elderly housing will increase instead of decrease.

Due to the abovementioned differences, our future policy on elderly housing must target at the needs of different elderly groups. The Administration must conduct in-depth assessment on the housing need of the elderly in future, including the projection of the population figures of different elderly groups, and the demand for different types of housing by various groups. A long-term policy on elderly housing should be formulated in line with the results of the relevant study. If need arises, consideration should be given to the provision of elderly housing in co-operation with the organizations concerned.

I still remember the Jolly Place and the Cheerful Court developed by the Hong Kong Housing Society in Tseung Kwan O and Jordan Valley. These lease-for-life rental housing are designed mainly in the light of the financial condition and daily needs of the middle-class elderly. Apart from the provision of self-contained living units, the lease-for-life rental housing also offers complementary facilities and services in respect of recreation, entertainment, social life and medical care. A total of around 600 units are offered by the Jolly Place and the Cheerful Court. All the units were rented out shortly after their completion, and a large number of applicants are now on the waiting list, which shows that this type of elderly housing is actually in demand. We must also pay due attention to the housing need of the grass-root elderly. The Government should, in construction PRH estates, earmark a certain number of units for this group of elderly to meet their needs. These flats should be installed with safety facilities required by the elderly, such as handrails, non-slippery accessories, and so on. Of course, other community facilities should also not be overlooked.

To assist the elderly to have a more comfortable life in their twilight years, the Government should conduct a feasibility study on the implementation of the "reverse mortgage" scheme. Basically, under the scheme, the legal right of a self-owned property is mortgaged to the bank in exchange for a fixed amount of money paid by the bank every month for living expenses. Similar schemes have

been fully developed in some countries, including the United States. Hong Kong should draw on their experiences and seriously conduct a feasibility study on its implementation. As this kind of scheme is a relatively new concept to many people of Hong Kong, the Government must explain clearly to the people concerned before implementing the scheme, so as to avoid wrong decisions.

President, as the elderly have contributed great efforts to the development of Hong Kong when they were young, we absolutely have the responsibility to make better preparation for their living in twilight years and provide them with better housing conditions. I so submit. Thank you, President.

MR FREDERICK FUNG (in Cantonese): President, today, I wish to first discuss the overall elderly policy at a macroscopic level. President, regarding the elderly policy, the Legislative Council has over the years proposed numerous concrete and forward-looking recommendations to the Government, covering elderly residence, medical needs, retirement protection or elderly housing as raised by Mr LAU Kong-wah today. In fact, I have lost count of the number of times we have discussed the above issues. However, all the responses given and actual actions taken by the authorities in the past can only make people shake their head and sigh. The top-level officials only pay lip service about caring for the elderly, without making any genuine commitments.

Exactly what goes wrong? Why is there always such an enormous gap between the present elderly policy of the Government and the public expectations?

In the final analysis, the thinking of those in power has gone wrong. I still remember when Chief Executive TUNG was in office, he held in high esteem the traditional Chinese cultural values of showing respect and concern for the elderly. In fact, these traditional values and virtues run deep in the blood of every Chinese, which are as natural as our breath. They become our intrinsic values and reflect in our words and deeds. The influence is imperceptible and gradual. We learn to respect our seniors. We respect, cherish and thank them for working silently and uncomplainingly, contributing wholeheartedly for this generation of ours and laying the foundation of our present prosperity and success.

However, the SAR Government is loaded with "calculations" towards the elderly. To put it nicely, it promotes the traditional Chinese cultural values to respect and care for the elderly. In reality, it manifests a kind of "instrumental rationalism". The actual content and implementation of the elderly policy hinges on economic effectiveness and financial viability, as well as the compatibility with the established leading principle of pursuing economic benefits.

President, let us take a look at the consultation on health care financing and the proposal of introducing means tests for "fruit grant" years ago. The authorities very often exaggerates the problems brought by the elderly — expenditure increases as number of elderly increases — "demonizes" the elderly services, deliberately inferring that the elderly will cause long-term financial burden to Hong Kong, undermining our competitiveness and dealing a serious blow to our long-term economic development. These inferences are made under the negative influence of "instrumental rationalism", which highlights that the elderly policy of the SAR only "attaches" under the leading principle of economic pursuit. The provision of elderly services is practically not premised on the respect for the elderly.

It is sad that under this philosophy of governance, the traditional Chinese values and even the universal values such as democracy, freedom and equality are twisted into "instrumental" and "practical" considerations by the SAR. These values are no longer regarded as something intrinsic, holy, beautiful and good, which should be embraced by everyone.

It is even sadder that these traditional and humanistic values are eventually reduced to be the instruments and slogans of the political propaganda of the person in power; and these cultural values have become a choice, to be selected and utilized at will by the person in power under different circumstances.

President, this is the basic reason for the enormous gap between the person in power and the public in the cognition of values and even in the expectation of the specific elderly policy.

I truly hope that the SAR Government will examine with sincerity its real intention and purpose in promoting traditional values. What is the ultimate concern of the authorities, the well-being of the elderly or the pursuit of economic objectives?

President, the Association for Democracy and People's Livelihood (ADPL) opines that the authorities must make a thorough reform, it should integrate the traditional value of caring for the elderly, which are embraced and cherished by the public into its policy, and carry out a comprehensive and in-depth review on and planning for the elderly policy. The policy concerned should absolutely not be restricted to elderly housing as discussed in today's motion.

Regarding the recommendations on the specific policies and measures concerning elderly housing proposed in the original motion and the various amendments today, the ADPL actually supports the majority of them. Among them, some have all along been advocated by the ADPL, such as the introduction of the "mixed use development" concept and the design of a residence model which integrates elderly housing and complementary facilities so as to achieve social integration, as well as the building of more public housing flats for the elderly.

The more urgent task is to focus on the immediate needs of the elderly. The ADPL thinks that the authorities should take actions expeditiously to provide different facilities and services that suit the daily life of the elderly in old public housing estates and shopping malls, such as retrofitting handrails and ramps at passageways, paving the floor with non-slippery tiles, installing automatic doors, and so on, as proposed in Mr WONG Sing-chi's amendment.

President, the ADPL thinks that community care should not be an excuse of the authorities for refusing to allocate resources in elderly services. Instead, the authorities should allocate additional resources and services to upgrade and increase the hardware and software in the community, particularly in public housing estates with more elderly tenants, such as Shek Kip Mei Estate, Tai Hang Tung Estate, Wong Tai Sin Estate and Tsz Wan Shan Estate. The authorities should provide diversified community services for the elderly, such as meal delivery and catering services, personal care and attention services, home cleaning and maintenance, visits and elderly care, and so on.

President, when we provide elderly services, when we carry out elderly work and assess the value of the elderly, we should be driven by the hearts, but not by the administrative perspective of assessing their economic value and feasibility.

Thank you, President.

MR ALAN LEONG (in Cantonese): President, many Members have mentioned just now that the elderly population in Hong Kong will see a very rapid growth in the next 20 years. I do not wish to repeat here the relevant figures. However, these figures show that the housing need of the elderly will actually increase with time. Definitely, the Government has the obligation and the need to get well prepared as early as possible through the implementation of effective policies.

Mr Ronny TONG in the Civic Party has spoken just now on the housing need of the grass-root elderly and the direction that should be taken by the Government in providing complementary support. Therefore, again, I do not wish to repeat here. I only wish to add that the Civic Party thinks the Government should expedite the building of PRH flats for the elderly in the hope of shortening the waiting time of the elderly for such flats so that they can lead a comfortable life in their twilight years.

President, I wish to use the remaining time to discuss how to cope with the housing need of some of the more well-off elderly after their retirement.

President, with higher education level attained by the elderly in Hong Kong, the life pursued by these elderly people after retirement is definitely more than the simple three meals and a bed. In fact, in many European and American countries, projects called "elderly villages" are being developed now and becoming very popular too. What are the features of these elderly villages? Many of them are in close proximity to the urban area and with convenient transport. In the villages, doctors and nurses are stationed on site. Some of them even have their own mini hospitals. Facilities catering for the daily need of the residents are available in the neighbourhood, such as beauty parlours, hairdressers, libraries, music halls, and so on. To some elderly people who have higher expectation of the quality of life after retirement and can afford it, these

small communities provide necessary complementary support. Hence, to cater for the housing need of these elderly people after retirement, I think the Government should start planning along this line of thinking.

President, in 2003, the Hong Kong Housing Society (HKHS) launched jointly with the Haven of Hope Christian Service and the Hong Kong Sheng Kung Hui Welfare Council a project called the "Senior Citizen Residences Scheme" to provide the elderly with one-stop services. Under the Scheme, elderly residences are built to provide accommodation, recreational, medical and nursing services. In fact, this kind of residence, developed in a building, can be regarded as a vertical version of the elderly village I mentioned earlier. Of course, the scope is somewhat different. However, this Scheme — as mentioned by many Members earlier — is actually very popular. Either the Cheerful Court in Ngau Tau Kok or the Jolly Place in Tseung Kwan O is well-received by the elderly.

President, the authorities have earlier allocated Tin Shui Wai Area 115 by the method of "land exchange" to the HKHS for developing an "elderly village" which will offer a total of 1 100 units. The Civic Party thinks that this policy is heading the right direction of development. The authorities should actively provide incentives to encourage private developers to build elderly housing estates with adequate complementary facilities, and even develop some new elderly communities. In this way, the need of this group of elderly people in society can be satisfied, and the gradually emerging problem of elderly housing can be alleviated.

President, in today's debate, the "reverse mortgage" scheme has frequently been mentioned on as a measure to alleviate the problem of an ageing population and address the elderly housing issue. The Civic Party thinks that, on the premise of no reductions in elderly welfare, the authorities should conduct more in-depth studies and comprehensive consultation on the implementation of the "reverse mortgage" scheme. However, we have to point out, according to overseas experiences in implementing "reverse mortgage", the scheme is not necessarily a success. For instance, when Singapore first launched "reverse mortgage" products in early 1997, it was predicted that there would be 200 cases of reverse mortgage each year. At first, the market did respond satisfactorily as predicted. And yet the situation plummeted sharply. Presently, there are less than 10 cases of "reverse mortgage" contracts in Singapore each quarter. Hence,

in the course of the studies, the Government needs to find out the reasons for such a phenomenon.

In order to strike a proper balance between protecting public interests and developing the "reverse mortgage" market, the Hong Kong Government should ensure that a sound monitoring system for "reverse mortgage" will be established. Such a system not only regulates the retail business of "reverse mortgage", but also ensures that the design of "reverse mortgage" is appropriate. The government departments concerned and the legislature should also jointly formulate a specific set of comprehensive laws and regulations for "reverse mortgage".

Regarding the traditional concept of the elderly to pass their property after their death to their children, consideration can be given to launch some non-100% "reverse mortgage". Such arrangement allows the descendants of the deceased elderly to repay the bank and then recover the property.

In a nutshell, President, we also think that the "reverse mortgage" scheme is worth studying. However, it is not as simple as we imagine.

President, with these words, I support the original motion and all the amendments.

MR LEE WING-TAT (in Cantonese): President, first of all, I would like to thank Mr LAU Kong-wah for proposing this motion today. However, I have a question: Why does he propose this motion all of a sudden? I agree that this motion is very important, and I am not against it. However, this issue has been discussed numerous times in this Chamber, as well as at the Panel on Housing. I hope that it is because Mr LAU is a Member of the Executive Council and he has some views on this issue, he thus proposes this motion. This is not necessarily a bad thing. Perhaps the Government wishes to put some positive ideas into practice and so he let this Council discuss this issue again.

In fact, this problem just involves several major issues. First, the issue of resources. Many Members present in this Chamber now are returned by direct elections. Mr LAU Kong-wah is one of them. If Members visit the district

communities frequently, they should find the elderly living in public housing estates mentioned by us Do we think that they are having a decent retirement? I believe the majority of the Members returned by direct elections will answer in the negative. We notice that elderly people who live with their family members sit in the park every morning, and occasionally they join the activities organized by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and the Democratic Party on Fridays and Saturdays. The DAB organizes more activities than we do. They organize activities once a week while we only do it once every four weeks. For those elderly people who take part in activities, I cannot say they lead a very poor life. However, I do not think this is a very decent retirement life either. Hence, the first issue is resources.

Resources cover the provision of housing, or as many colleagues have mentioned, the retirement protection, as well as the various facilities and activities in local communities. Therefore, this issue is not the sole responsibility of Secretary Eva CHENG. She is just responsible for housing. However, does it mean having a place to stay can solve the problem? Actually, the answer is "no". Basically, many elderly people if we talk about a living space of 50 to 60 sq ft or 70 to 80 sq ft per person, the PRH estates can well provide such living space. However, I hope colleagues would understand that many elderly people do not consider themselves leading a happy life of decent retirement. Hence, the question is whether the Government is willing to invest more resources in this issue. The investment of resources is not only restricted to housing but also in other areas.

When I was driving yesterday, I suddenly heard James TIEN say some soul-stirring words about the Government having so much money — I am not hitting the table strongly, I just get excited — he said that as we had a reserve of over \$2,000 billion, including the foreign exchange reserve, even if the annual return was just as low as 5%, we would gain \$100 billion each year. So, spending the money on the needy was something we should do. These remarks of James TIEN suddenly sound quite pleasant to the ear. If we take, not as high as 5%, but 3% out of the 5% and add the amount to the premium — the premium will not decrease — still 2% will remain. If the return is 5%, how much is 2%? It amounts to \$40 billion a year. That amount is recurrent, that is, we get this amount every year — Mr CHAN Kam-lam knows more than me in this regard. Members may note that the average return of the HKMA over the past 10 to 20

years stand at 4% or 5%. I believe the return will not be lower than this rate. Does the Government really have no money? Not necessarily. The question is whether the Government has made any commitments.

Of course, the Government may say that even if it has the money, it will not invest in every area. Sometimes I just wonder, if the Government has money but it does not allocate resources in this nor that area, where exactly does the money go? I think the Government should invest in this area as it has the least controversy. Secretary Eva CHENG often asks us not to fight for young people of the "post-80s" generation for home ownership as they are in their twenties. I seldom fight for such a demand. Mr CHAN Hak-kan does it more often. I agree that fresh graduates should not own a property. They should work hard for five or 10 years before they buy a property of their own. However, should more resources be invested in the elders who are in their 60s and 70s? During my long service in the Legislative Council, I have very seldom heard arguments in this respect, yet despite so, the Government still does nothing and what can we do. Therefore, I would like to ask "Executive LAU" to double his effort. Otherwise, the problems remain unsolved after the discussion.

I am very pleased to hear Jeffrey and Alan talk about "reverse mortgage". Three years ago, HO Hei-wah talked to me (I actually brought up this issue with Secretary Eva CHENG before), saying that there were two very strange phenomena in Hong Kong. First, the low-end rental market in Hong Kong is very inactive, that is, the market of renting a room for around \$3,000 to \$4,000 is not very active; second, as Jeffrey mentioned earlier and as we all know, many elderly property owners are living a life worse than that of CSSA recipients. They do not want to sell their property to maintain a living. Jeffrey's view is a bit different from Alan's. Alan thinks that Singapore has encountered some difficulties in implementing "reverse mortgage", but Jeffrey holds a more positive view. However, I maintain that the Government should conduct studies on this issue.

Will I make use of this method in future? Perhaps I will consider. If I do not have any children but I own a property, what can I do? Since I cannot bring the property to the Underworld with me when I die, I may as well have it mortgaged earlier so that at least I can have 10-odd years of better living. I can receive a monthly I wonder how much my property is worth. I may receive several to ten thousand dollars a month. After I spend them all, I will

bid you all farewell. In this way, I can be happier. Why does Hong Kong not implement "reverse mortgage"? Should the Mortgage Corporation conduct some studies? I agree that relevant studies should be conducted.

I understand that there are difficulties in implementing "reverse mortgage". However, if the Government thinks that this is a positive idea, it should not consider it wholly from the principle of free market. It should not say that if the banks are willing to do it, the Government will follow suit; otherwise, the Government will not do so. The general thinking in a Chinese society is that one's living will be protected if he owns a property. If this concept remains unchanged, it will actually lead to a waste of assets. We think that if there is a way to facilitate the elderly to feel assured to hand over their property to an agency, and they can then receive some money every month in return for leading a life with dignity, it will definitely be better than living in Tai Kok Tsui, Wanchai or some old buildings, and sitting in the park every day. Imagine if they have \$5,000 to \$6,000 or even \$10,000 every month, they can join the tour organized by the DAB to Xiamen today; and join the tour organized by the Association for Democracy and People's Livelihood to Dongguan next week; and then join the tour organized by the Democratic Party to Tung Lung Island a few months later — we usually organize budget local tours. At least, they have some money to spend, and this will make them happy. Keeping guard of a property will not make life meaningful.

President, of course, I understand the complexity of this problem. However, I hope the Secretary will give it more thought. If the Secretary does not consider allocating additional resources in this area, I think after this motion debate, the problem will remain the same as it was in the past.

Thank you, President.

MR WONG KWOK-KIN (in Cantonese): President, with the advances in modern medicine, the people of Hong Kong are enjoying an increasingly long life, with many octogenarians. Originally, being a centenarian has been the wish of all people and it is a blessing. However, if one still has to worry about clothing, food, shelter and transportation in old age, it is really pitiful. The housing issue is particularly important as the elderly do not eat much. Hence,

the problem on elderly housing should arouse public concern. However, the elderly policy of Hong Kong, in areas of housing, community facilities, nursing care or welfare, fails to catch up with the annual growth of 5% of the elderly population. As a result, the elderly worry whether they can maintain a basic living after retirement. Therefore, we have always advocated that a long-term policy must be formulated to enable these elderly people who did their utmost for Hong Kong when they were young to have a truly comfortable life in their twilight years.

According to the latest General Household Survey of the Census and Statistics Department, Wong Tai Sin has the highest proportion of the elderly population, accounting for 16.5% of the population in the district. The number of the elderly in Kwun Tong also accounts for 15.5% of the population in the district. Coincidentally, both districts are the early-developed districts in Hong Kong where many elderly people have resided there since they were young. Hence, these two districts face the greatest challenge of an ageing population. Nearly all the old public housing estates in Wong Tai Sin and Kwun Tong, called by outsiders as "elderly districts" and "elderly estates", have to face this problem. The design of flats, even the lobby and the whole community is of the early model. Moreover, as they are old estates, the design is generally out-dated. In terms of practical functions, we do not see the Government provide any active support to build facilities to facilitate the access of the elderly. In many estates, the various entrances and exits have steps and ramps are seldom found. Even if there are ramps, some of them are not paved with non-slippery materials, posing a potential risk to elderly people with mobility problems. In particular, in rainy days, many elderly people would rather stay at home to avoid a slip and fall. I wish to particularly point out here that the gradient of Shatin Pass Road is very steep, which is actually quite risky to the elderly people living in Chuk Yuen (South) Estate who have to frequently cross the Shatin Pass Road to the neighbouring Our Lady of Maryknoll Hospital for medical consultation. I have repeatedly reflected the situation to the Housing and Transport Departments and applied for the expeditious construction of a footbridge but to no avail.

Other districts are actually facing similar problems. No escalators or lifts are installed in some of the shopping malls managed by The Link. Besides, small traders in these shopping malls, frequently patronized by the elderly, have winded up their business in recent years due to the frequent rental increases by

The Link. They are replaced by large chain shops. As we all know, the prices of these chain shops are higher than those of the small traders. Hence, very often, elderly residents would rather walk a long distance to shop at other places to save money. Walking a long way is really no easy task for these elderly people. For this reason, they go out less and less, this situation is highly undesirable.

In recent years, many elderly people have planned to settle in their hometown or in the vicinity of the Guangdong Province, not only because the living standard of the Mainland is lower than that of Hong Kong, but also because the environment there is more secluded and spacious with plenty of outdoors facilities, which enable them to really enjoy a happy retirement life. However, as the elderly people do not have any income, and their children may not have the financial means to give them great support, the "fruit grant" has become their only source of income to meet their living expenses. Therefore, many elderly people living in the Mainland very much hope that the Government will take heed of the advice and review the policy on welfare portability, so as to allow them to continue to receive "fruit grant" during their stay in the Mainland. Besides, this can also alleviate the housing need of the elderly in Hong Kong.

President, everyone works hard and diligently all his life, just for three meals a day and a place to live, and to maintain a basic living standard after retirement. These elderly people have been busy for most of their lifetime making great contribution to the development of Hong Kong. We should enable them to have a more stable life in their twilight years, so that they can spend the final stage of their life happily and without any worries.

Hence, I hope that the Administration will give more thoughts on the elderly policy, including their housing need, consider their needs from the perspective of the elderly, as well as formulate a set of long-term and suitable housing policies, in which the housing policy must be included, so as to enable the elderly to have a better life.

Thank you, President.

MR PAUL CHAN (in Cantonese): President, in the discussions of the Legislative Council on the housing issue in the past, the focus is always on the ways to assist young people or the middle class in buying their own home amid high property prices, the elderly housing issue or policy is only briefly touched on and even lightly mentioned in passing in the debate on elderly policy. President, I think the elderly policy of the Hong Kong Government is both imperfect and fragmented, with a lack of overall consideration and co-ordination, let alone having a set of long-term, focused and comprehensive planning to resolve the elderly housing problem.

The serious problem of an ageing population of Hong Kong has been clearly shown in the consultation document issued by the Government in early 2008 on health care reform and supplementary financing options. The document has pointed out that by 2030, one in every four people in Hong Kong is a senior. In the modern society, most of the young people, after marriage, are reluctant to live with their parents. And, parents can hardly expect their grown-up and working children to bear the responsibility to support them.

According to the Thematic Household Survey Report No. 40 compiled by the Census and Statistics Department, 46% of the elderly in Hong Kong live in private housing. However, the design of private buildings and estates in general may not cater for the daily needs of the elderly. In particular, when these elderly people are not living with their children, equipment that targeted at special living needs as well as medical and elderly support services are all the more important.

I have noticed that in the recent study report entitled "Rethinking housing for the elderly" published by the Bauhinia Foundation Research Centre, a number of policy recommendations are proposed. For instance, the introduction of the "mixed development" concept, the modification of the land use planning, the "reverse mortgage" scheme mentioned by many Honourable colleagues earlier, and so on. I think the Government should consider and study these options in an open and active manner. If feasible, the options should be put into practice as soon as possible taking advantage of the situation. In no case should the Government shelve the study report after just listening to its views.

President, at the meeting held each year for the preparation of the Budget by the Financial Secretary, I have all along suggested that the Government should allocate additional resources to build more elderly housing. In fact, the Hong

Kong Housing Society (HKHS) launched the Senior Citizen Residences Scheme in 2001, that is, nine years ago. However, only a small number of about 567 units have been provided so far. Although the Government subsequently announced in 2008 its approval in principle for the HKHS to carry out elderly housing development projects at the old Tanner Hill Estate site in Tanner Road, North Point and Tin Shui Wai Area 115 to provide a total of 1 950 elderly rental units, this supply can hardly meet the needs of over 1.2 million elderly population in Hong Kong. Hence, the Government should brook no delay in building elderly housing expeditiously.

President, I do not agree to a government official's saying that the Government may not be able to do more work due to limited resources. The Government is indeed having a considerable financial surplus at present. To take a step backwards, say, when we are in good times, as long as the Government does not hand out tax rebates with no specific targets, nor casually cut both the profits tax rate and the standard tax rate of the highly-paid by 1%, costing the Government an one-off \$6 billion, plenty of resources are available for Hong Kong to build elderly housing. I personally think that the resources allocated to this area are actually not expenditure but investment. This not only resolves the problem of elderly housing, but also prepares for the rainy days for the progressively ageing population of Hong Kong.

President, I suggest that the Government should consider allowing senior citizens yet to reach retirement age to withdraw the balance from their Mandatory Provident Fund account, on condition that they have a balance in that account and satisfy a certain age requirement, to pay for an elderly residence, so that they can make pre-retirement housing arrangements to avoid post-retirement blues.

Mr WONG Sing-chi proposes in his amendment to "immediately implement the verdict of the High Court to abolish the absence limit for receiving Old Age Allowance". I understand that many Honourable colleagues of this Council agree to this proposal. I very much agree to it too. There are public concern that once the absence limit is abolished, hundreds of thousands of elderly people long staying overseas will rush back to Hong Kong to apply for "fruit grant". President, the objective fact remains that in Hong Kong, many elderly people in my father's generation did not receive any public retirement protection after their hard work all those years ago. Elderly people in that generation can still expect their children to support them when they get old. But, in reality,

even the children intend to do so, it is not easy to support their parents under the present pressure of livelihood. These elderly people have contributed the prime time of their life and their lifelong effort to their family and society. Behind the economic achievement of Hong Kong today, there are their sweat which is of utmost importance, and their merits which should not be overlooked. They are now in their old age, and as the standard of living in Hong Kong is very high, it is actually not easy for them to spend their retirement life here. Therefore, they choose the Mainland where the standard of living is relatively lower to spend their twilight years. If the retirement protection and livelihood of these elderly people are ignored just because of our concern about the abuse of the system by a small number of people after the absence limit is abolished, I find it unjustified and absolutely wrong. Hence, I hope the Administration will adopt a kind and generous attitude when it considers these proposals, instead of being mean and calculating.

President, as I have repeated many times before, I do not find Hong Kong lacking financial means. Hong Kong has accumulated a considerable amount of resources. It is time to make use of these accumulated resources to pursue the well-being of society.

President, I so submit.

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

(No Member indicated a wish to speak.)

PRESIDENT (in Cantonese): Mr LAU Kong-wah, you may now speak on the two amendments. The speaking time limit is five minutes.

MR LAU KONG-WAH (in Cantonese): President, today's motion is an everlasting one. Of course, we have put forth many opinions in this Council. The Government has responded to some of the opinions previously proposed by us, including the Harmonious Families schemes and the Senior Citizen Residences Scheme as mentioned by Members just now. Nevertheless, some of

our previous opinions, including the "reverse mortgage schemes" mentioned by Members, have not received adequate attention from the Government.

The DAB will support the amendments proposed by the two colleagues. I have strong feelings to some proposals relating to the facilities of public housing estates as mentioned by Mr WONG Sing-chi just now as we belong to the same constituency. We have visited the same public housing estates and also noticed the same problems. I think these phenomena are not confined only to our constituency, they are very common in Hong Kong. However, Secretary, even though the problem is so common, our bids for some elderly facilities at the local level with the local residents or groups often end up in failure despite of our "teeth-bleeding" lobbying efforts, and one of the reasons for this is, we have to queue up and compete for resources. I think the Secretary must address this issue. If we really have a high regard for the lives and facilities of the elderly, the Hong Kong Housing Authority can be a bit more generous by carrying out some improvement works at one go, so that the elderly do not have to wait year after year, and the facilities that should be available is still out of reach.

As a geriatric doctor, Dr PAN Pey-chyou understands the situation very well and has provided some advice on designing facilities for the elderly in future in a very professional manner. These are in fact very important. I very much agree that the design should be focused on the social network of the elderly — something that the Government has also mentioned right at the beginning. The Government hopes that the design of support measures for the elderly, especially those relating to housing, will continue to be built on the principle of family-based support. I will listen carefully to the Secretary's reply to be given later to see what will be the Government's response to Members' views insofar as family-based support schemes are concerned.

Thank you, President.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I am grateful to Members for their valuable views on elderly housing, welfare, health care, land planning, as well as financing. Taking into account the views from various relevant Policy Bureaux and departments, I am going to give my overall response.

"Ageing in the community" is an underlying principle of the Government's elderly policy. It is also the wish of most elderly people. The company, care and support of their families are particularly important to the physical and psychological well-being of elderly people. The Government has all along been encouraging and assisting the elderly in leading an active and healthy life and has been providing various types of community care and support services to enable them to continue to live at home and in a familiar environment in their twilight years.

The original motion of Mr LAU Kong-wah and the respective amendments of Mr WONG Sing-chi and Dr PAN Pey-chyou propose that we continue to meet the housing needs of the elderly through the public rental housing (PRH) policy or by further improving the PRH environment. In fact, our existing subsidized housing policy seeks to pool resources to provide PRH to those people, including the elderly, who cannot afford to rent a flat in the private market.

At present, about 40% of the elderly people in Hong Kong live in PRH. As for those elderly people who cannot afford to rent a flat in the private market, it has all along been the commitment of the Hong Kong Housing Authority (HKHA) to give them priority access to public housing. A number of priority housing schemes have been launched to expedite PRH allocation to elderly applicants on the Waiting List (WL) within the constraints in PRH resources. At present, the number of elderly one-person applicants awaiting is about 5 400 and the average waiting time for them is about 1.1 years, which is shorter than the two years for general family applicants.

Regarding increasing the supply of new PRH units, according to the HKHA's five-year Public Housing Construction Programme, that is, from 2010-2011 to 2014-2015, the anticipated new PRH production is about 75 000 flats, among which about 20% are one-person to two-person units suitable for single persons or two-person families, including elderly people. The HKHA will continue to work closely with the relevant bureaux and departments to identify suitable land for the production of PRH blocks in various districts to meet society's demand for public housing, including the elderly people.

Several Members propose that the Government enhance the priority schemes under the PRH policy to encourage core families to live with or near their elderly relatives. At present, elderly households, including elderly

one-person applicants and all-elderly households, are allowed to choose any one of the four WL districts in their PRH applications, without being barred from opting for the Urban District as in the case of new applications without elderly. Perhaps Dr PAN Pey-chyou can note that elderly people — as I said just now — are not subject to such a condition. That is to say, they can opt for the Urban District.

In addition, under the Harmonious Families Addition Scheme, eligible adult offspring, including singletons or those with family members, may apply for addition to the tenancy of elderly tenants. Other younger members of the family, including singletons, may also apply with their elderly members for a PRH flat of any District of their choice under the Harmonious Families Priority Scheme and enjoy a credit waiting time of six months. They can choose either to live under one roof or separately in two nearby PRH units. Existing elderly PRH tenants may apply for transfer to estates near to that of their offspring through the Harmonious Families Transfer Scheme, or apply for amalgamation of tenancies with that of their offspring and be transferred to a PRH unit of suitable size under the Harmonious Families Amalgamation Scheme.

Members can see that we are actually dealing with our PRH tenants, in particular, the elderly, in a very flexible and human way. The HKHA will continue to implement the above schemes to benefit more elderly people in need.

Regarding Members' proposal to provide suitable PRH flats and ancillary facilities to elderly people, we agree very much with this and are working in this direction. In the past, the HKHA introduced hostel-type PRH for the elderly people. However, very often, as it was mentioned just now, since tenants had to share communal kitchen and bathroom facilities, it was not well-received by the elderly. Therefore, the Housing Department has ceased the allocation of singleton flats commonly known as split units and Type I units under the Housing for Senior Citizens Scheme and these units have not been included in the Express Flat Allocation Scheme since last year.

The HKHA introduced a trial scheme in 2002 to convert units under the Housing for Senior Citizens Scheme with relatively high vacancy rates into normal PRH flats. In view of the satisfactory results of the trial scheme, the HA endorsed the scheme as a long-term measure in July 2006, with the aim of converting about 500 units under the Housing for Senior Citizens Scheme with

relatively high vacancy rates to provide more than 100 normal PRH flats. The conversion programme involves about 1 400 units, which can provide more than 400 normal PRH flats after conversion for applicants eligible for PRH, including elderly people.

As some of the Types II and III units under the Housing for Senior Citizens Scheme are provided with 24-hour warden service and are located mainly in the Urban and Extended Urban Districts, they remain attractive to a number of elderly one-person applicants. The Housing Department will continue to allocate these units according to the usual general procedures. However, if elderly applicants are allocated Type II or III units under the Housing for Senior Citizens Scheme but they indicate that they do not wish to move into such units when allocated such housing, we will not allocate similar housing again and will, subject to the availability of resources, respect their preferences as far as possible.

The HKHA has all along been committed to providing a safe and convenient living environment to elderly tenants, with a view to enabling them to age in the community. For many years, the HKHA has made continual improvements to the design of housing estates and buildings. The HKHA has since 2002 adopted a "universal design" in all of its new construction projects, introducing various types of elderly-friendly designs, such as lever type door handles — Mr WONG Sing-chi, now they do not have to work out by opening doors because there are now lever type door handles — and the design of accesses in housing estates has also been improved. In addition, in 2006, the HKHA implemented the "Barrier-free Access Improvement Programme" to enhance facilities such as ramps, handrails and voice synthesizers in lifts to provide convenience to elderly people with special needs and people with disabilities.

In view of the ageing the residents in some PRH estates, the HA will also renovate and add recreational and leisure facilities suitable for elderly people, and in some of the PRH estates, provide additional lifts, pave the floor with non-slippery tiles as suggested by Members, adjust the door closers or the floor springs at residential ground floor lobby areas for easy access, as well as install automatic doors in estate shopping centres to enhance accessibility for elderly people. The HA constantly upgrades and increases various recreational facilities by taking into account local views and monitoring the usage of existing recreational facilities. We are also committed to improving barrier-free access

for elderly people and people with disabilities to ensure accessibility of various recreational facilities to them.

The Government places equal emphasis on the needs of elderly people who are not living in PRH. Various Policy Bureaux have relevant policies and measures to enable elderly people living in various locations, including those living in PRH and those who are not, to receive and make use of various types of welfare, health care and community services and facilities conveniently.

At present, the Government provides home-based house call services and day care services to needy elderly people who live at home. The scope of such services encompasses personal care and attention, rehabilitation exercises, counseling, provision of meals, respite, escort service, and so on. Currently, there are about 25 000 elderly people who are recipients of various kinds of subsidized community care service. Apart from subsidized home care services, there are also many non-profit-making organizations and social enterprises providing similar home support services for elderly people to choose from.

The Government has introduced a number of new initiatives in recent years to support elderly people ageing in the community and their carers. These include the "Integrated Discharge Support Trial Programme for Elderly Patients", which provides transitional, intensive and so-called "one-stop" services for elderly people newly discharged from hospitals; with a view to facilitating elderly people' speedy recovery after discharge and helping them continue to age at home.

The Government also provides the elderly people with a series of support services at district and neighbourhood levels via the 158 District Elderly Community Centres in the territory, including regular contacts with elderly people in the district (including singleton and hidden elderly people), the provision of counseling, referrals, emotional support, as well as community and health education services.

As regards health care services, through public hospitals and clinics in various districts across the territory, the Government has all along been providing Hong Kong residents, including elderly people and other members of the public, comprehensive health care services including out-patient and in-patient services of different specialties, as well as ambulatory and outreach services, and so on.

President, we understand that it is extremely important to improve the design and facilities of elderly housing to enhance home safety. The "Home Environment Improvement Scheme for the Elderly" of the Social Welfare Department is providing home renovation services and household items for elderly people lacking the means to improve their homes and reduce the risk of household accidents. In addition, the Government also launched the "District-based Scheme on Carer Training" through Elderly Community Centres to provide training on basic skills in taking care of the elderly people, including teaching carers how to take care the elderly people, knowledge of common ailments among the elderly, skills in communication with the elderly people, and so on.

Several Members, including Dr Joseph LEE, proposed to examine afresh the current land planning and formulate a comprehensive land policy with sites earmarked for elderly housing purposes. Regarding this, the Development Bureau indicated that in all Outline Zoning Plans, the sites zoned for residential purpose can be used for residential development, including PRH or private residential development. According to the "Definitions of Terms/Broad Use Terms Used in Statutory Plans" compiled by the Town Planning Board, "elderly apartments" belong to "residential institution". This type of land use includes providing ancillary facilities, such as health care services, to elderly people living in elderly housing. Such uses are always permitted in zones "Residential (Group A)" and "Residential (Group B)". For zones for other land uses such as "Commercial", "Government, Institution or Community", "Residential (Group C)", "Residential (Group D)" and "Comprehensive Development Area", they can be used for elderly housing through application for planning permission.

At present, a number of potential elderly housing sites at Tanner Road in North Point, Jordan Valley and Hang Kau in Tseung Kwan O and in Tin Shui Wai Area 115 Comprehensive Development Area earmarked for the Hong Kong Housing Society (HKHS), as well as the site at Victoria Road in Pokfulam in the possession of private developers, have already been granted planning permission for development into elderly housing.

This model of "elderly housing" undoubtedly offers an additional choice for the elderly. That said, the objective of the Government's elderly policy is to promote "ageing in the community", to encourage mutual care among old and young family members and mutual support among neighbours, and to ensure that

elderly people living in different locations may receive various types of support conveniently, rather than requiring elderly people to live together at a certain location. Land resources are limited. We will carefully consider Members' proposal for formulating a comprehensive land policy with sites earmarked for elderly housing purposes.

Just now, "reverse mortgage schemes" have been mentioned by a number of Members. Mr LAU Kong-wah proposed that we should explore "reverse mortgage schemes" and he also reminded us that Mr TAM Yiu-chung has already raised this subject in 2000. Mr CHAN Kam-lam also expressed his concern just now and Mr Jeffrey LAM also indicated his support. Although Mr Alan LEONG has some reservation, he still asked us to carry out studies on it.

In fact, the Hong Kong Mortgage Corporation (HKMC) has conducted a relevant study in 2005 and found that the public's demand for the product was very limited at that time, therefore, it was difficult to introduce "reverse mortgages" under the *modus operandi* of pure business enterprises. In view of the ageing population in Hong Kong, mortgage companies are currently conducting studies on the feasibility of introducing "reverse mortgages". The scope of study includes making reference to overseas experience, analysing conditions and factors in the local market and having relevant discussions with banks or other insurance companies. Regarding Mr LAU Kong-wah's concern that the word "reverse" does not sound nice, I will reflect this point to the HKMC, so that it can consider whether or not a term more acceptable to public opinion should be used.

The original motion proposes that the existing policies on welfare and health care services for the elderly be reviewed to enable those elderly people who choose to live in the Mainland to enjoy their twilight years there. Insofar as the Comprehensive Social Security Assistance (CSSA) Scheme is concerned, elder people who have received CSSA for not less than one year may choose to retire in Guangdong or Fujian under the Portable CSSA Scheme for Guangdong and Fujian Provinces.

Regarding the Old Age Allowance, commonly known as "fruit grant", a recipient is currently entitled to a 240-day permissible limit of absence from Hong Kong each year. The Labour and Welfare Bureau is currently studying whether the annual absence leave can be further relaxed.

In view of the fact that some elderly people may opt to reside in the Mainland, it is also proposed that the Government should consider the portability of welfare in Hong Kong to the Mainland. However, welfare covers many areas, such as health care, housing, education, and so on. It is not limited to social security. Moreover, the portability of welfare involves a number of complicated matters having great impact on government policies and public resources. Therefore, the Government thinks that it should exercise great caution when handling this matter.

Mr WONG Sing-chi proposes that the Government immediately implement the verdict of the High Court to abolish the absence limit for receiving "fruit grant". The Labour and Welfare Bureau indicated that CSSA and Old Age Allowance are two different schemes and they have different aims and targets, so a simple comparison is not possible. The High Court has recently decided that the requirement for the one-year continuous residence in Hong Kong prior to making an application for CSSA breaches the Basic Law and the Bill of Rights Ordinance. The Social Welfare Department has suspended the implementation of such a requirement under the CSSA Scheme immediately. The Labour and Welfare Bureau is studying the judgment, its impact and the merits of an appeal. The Department of Justice advised that the judgment is applicable only to the CSSA Scheme and has no direct legal impact on the residence requirements for the Old Age Allowance.

President, faced with the challenge of an ageing population in Hong Kong, the Government will continue to strengthen the support to the elderly in such areas as housing, welfare, health care and community services, with a view to assisting elderly people to age at home. The Government will also continue to adjust and enhance its policies appropriately taking into account the demographic changes, with a view to ensuring that elderly people receive proper care.

The views expressed by Members just now involve various Policy Bureaux. We will reflect the details to them appropriately. I totally agree with Mr Frederick FUNG in saying that all our policies and measures should come from the bottom of our heart.

Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mr WONG Sing-chi to move his amendment to the motion.

MR WONG SING-CHI (in Cantonese): President, I move that Mr LAU Kong-wah's motion be amended.

Mr WONG Sing-chi moved the following amendment: (Translation)

"To delete "as" after "That," and substitute with "there are currently more than 1.2 million elderly people in Hong Kong which account for about 18% of our population, and"; to add "; in this connection" after "elderly policy"; to add "(c) to draw up a timetable for the expeditious provision of spacious small-sized flats with self-contained kitchens and toilets to all elderly people residing in 'elderly housing', so that they can live comfortably and securely; (d) to install facilities in old public rental housing ('PRH') estates and shopping malls that suit the daily life of elderly people, such as retrofitting handrails and ramps at passageways, paving the floor with non-slippery tiles, installing automatic doors, etc., so as to provide a safe and convenient living environment; (e) in PRH estates with relatively more elderly residents, to provide community facilities that can cater for the needs of elderly people, such as pebble paths, gateball courts, fitness equipment, chess tables, etc., and social welfare services such as meal service, personal care, estate clinics as well as recreation centres for the elderly; and to enhance efforts in caring for elderly residents in PRH estates by paying regular visits to singleton and hidden elders and organizing activities for them, so as to enable them to have more contacts with the community;" after "the young;"; to delete the original "(c)" and substitute with "(f)"; to delete the original "(d)" and substitute with "(g)"; to delete the original "(e)" and substitute with "(h)"; and to add ", and immediately implement the verdict of the High Court to abolish the absence limit for receiving Old Age Allowance, so as" after "health care services for the elderly"."

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

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): As the amendment by Mr WONG Sing-chi have been passed, I now call upon Dr PAN Pey-chyou to move his revised amendment.

DR PAN PEY-CHYOU (in Cantonese): President, I move that Mr LAU Kong-wah's motion, as amended by Mr WONG Sing-chi, be further amended by my revised amendment.

Will I have three minutes of speaking time?

PRESIDENT (in Cantonese): You may speak up to three minutes to explain the revised terms in your amendment.

DR PAN PEY-CHYOU (in Cantonese): Alright, thank you, President. In my amendment, my major consideration is that Mr LAU Kong-wah's motion has already addressed the problem that private housing cannot satisfy the needs of the elderly. He has come up with a lot of great ideas and many creative proposals to make up for the inadequacies of private housing in meeting the needs of the elderly at present. The four Members of the FTU absolutely agree to his

proposals. But in the Secretary's reply, some crucial issues have seemingly been evaded. Though public housing policy

PRESIDENT (in Cantonese): Dr PAN Pey-chyou, you can only explain the revised wordings in your amendment.

DR PAN PEY-CHYOU (in Cantonese): Alright. As for the amendment moved by Mr WONG Sing-chi, I think he has put forward many detailed proposals insofar as public housing is concerned, such as the specific facilities to be provided in the estates. I believe these facilities, modifications and community services can satisfy the needs of the elderly, hence I absolutely agree with him in this regard.

Dr PAN Pey-chyou's further amendment to the motion as amended by Mr WONG Sing-chi: (Translation)

"To add "; (i) to review the public housing policies relating to the elderly, and increase the supply of elderly housing, with a view to further shortening the waiting time of elderly people for public rental housing ('PRH'); (j) to enhance or provide relevant schemes under PRH policy to encourage core families to live with or near their elderly relatives to facilitate the caring of the elderly; (k) to improve the design and facilities of elderly housing to facilitate the activities of elderly people with disabilities as well as enhance home safety; and (l) to review the existing community and medical services for the elderly so as to enhance support for elderly people living at home" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr PAN Pey-chyou's amendment to Mr LAU Kong-wah's motion as amended by Mr WONG Sing-chi, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr LAU Kong-wah, you may now reply and you have one minute 56 seconds.

MR LAU KONG-WAH (in Cantonese): President, I would like to thank the Members who spoke just now. This is the first livelihood-related motion that can be passed after the passage of the constitutional reform package. This is a meaningful consensus reached among us.

Just now in her lengthy reply, the Secretary has made many commitments and introduced some new schemes. The reply with respect to reverse mortgage schemes is slightly better than the one given 10 years ago. I hope the relevant study will generate results expeditiously.

President, just now I said that I am so concerned about this matter, not because I have received any insider news — I want to respond to what Mr LEE Wing-tat has said — I am only concerned that 20 years later, one out of every four persons in Hong Kong will be over the age of 65, and by then all of us, including the 57 Members in this Council, will become elderly people. Therefore, I am doing this for myself and also for the people in Hong Kong.

President, every year some former Members of the Legislative Council would come back for reunion gatherings. I hope 20 years later, when old people like us come back in the capacity of former Members of the Legislative Council, Mr CHAN Hak-kan, Ms Starry LEE or Miss Tanya CHAN, who will be aged 55, 57 and 59 respectively by then, will greet us and share with us that the commitments made by Secretary Eva CHENG for this motion debate have been

realized, and the Secretary herself will also be 70 years old by then.*(Laughter)*
At that time, I hope we can have a reunion and talk about the results of today's motion debate together.

Thank you, Members; thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Kong-wah, as amended by Mr WONG Sing-chi and Dr PAN Pey-chyou, 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 am on Wednesday, 7 July 2010.

Adjourned accordingly at five minutes to Ten o'clock.

Annex I**DEPOSIT PROTECTION SCHEME (AMENDMENT) BILL 2010****COMMITTEE STAGE**Amendments to be moved by the Secretary for Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
4(4)	<p>(a) In paragraph (b), by deleting the full stop and substituting a semicolon.</p> <p>(b) By adding –</p> <p>“(c) in the Chinese text, by repealing “或有負債” and substituting “或有債務”.”.</p>
4(5)	<p>In the proposed section 27(4)(c), in the Chinese text, by deleting “或有負債” wherever it appears and substituting “或有債務”.</p>
6	<p>By deleting subclause (2) and substituting –</p> <p>“(2) Section 36(1) is amended by repealing “of such an amount as the Board considers appropriate”.</p> <p>(3) Section 36 is amended by adding –</p> <p>“(2) The Board –</p> <p>(a) is to determine the amount of interim payment to be made to a depositor under subsection (1); and</p> <p>(b) may make interim payments of different amounts to different</p>

depositors or different
classes of depositors under
subsection (1),

that the Board considers appropriate having
regard to the matters that the Board thinks
relevant in the circumstances, which may include
the financial position of the depositor or
depositors concerned.”.”.

7 In the proposed section 37(5), by deleting “entitled amount” where it
twice appears and substituting “reference amount”.

13(3) In the proposed section 1(2)(d) of Schedule 4, in the Chinese text, by
deleting “或有負債” and substituting “或有債務”.

Schedule,
section 2

By deleting subsection (8) and substituting –

“(8) Section 265 is amended by adding –

“(11) In the case of a winding up where
the relevant date has occurred before the
commencement of the Schedule to the Deposit
Protection Scheme (Amendment) Ordinance
2010 (of 2010), that Schedule applies in
relation to that winding up if the specified event
within the meaning of section 22(1) of the
Deposit Protection Scheme Ordinance (Cap.
581) occurs on or after the commencement of
that Schedule.”.”.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Security requested the following post-meeting amendment in respect of a supplementary question to Question 6

Line 3, first paragraph, page 56 of the Confirmed version

To amend ", and has notified the Buildings Department of the situation for follow-up." as ", and has notified the Lands Department of the situation for follow-up." (Translation)

(Please refer to line 4 to 5, last paragraph, page 10544 of this Translated version)

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Transport and Housing to Mr CHEUNG Hok-ming's supplementary question to Question 3**

As regards how the Administration deals with illegal placing of road signs, as pointed out by the Secretary for Transport and Housing at the meeting, the 2 869 non-compliance notices issued by the Highways Department (HyD) mentioned in part (b) of the main reply were in relation to cases of non-compliance in respect of road excavation works. The figure does not cover cases in respect of illegal placing of road signs (including road signs for indicating direction to housing estates(s) or building site(s)).

Unauthorized placing of signs or markings on public roads is an offence under the Road Traffic Ordinance (Cap. 374). The HyD would refer to the Transport Department (TD) for follow-up whenever such non-compliance is identified during road inspection.

In the past two years, the TD handled a total of 49 cases related to the placing of unauthorized road sign on public roads. In 16 of the cases, after the TD has followed up with the individuals involved, the people concerned have removed the road signs in question. In the remaining cases, the individuals involved could not be reached, and the HyD arranged for the removal works.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Security to Mr Jeffrey LAM's supplementary question to Question 6**

The Fire Services Department conducted a territory-wide survey to all the Industrial Buildings between April and June this year. The office of Win's Travel Agency is not located in an industrial building and therefore, it is not within the scope of the aforementioned survey.