

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 3 July 2008

The Council continued to meet at Nine o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, G.B.M., G.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

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

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

DR THE HONOURABLE LUI MING-WAH, S.B.S., J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

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

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

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

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

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

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

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

DR THE HONOURABLE YEUNG SUM, J.P.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

THE HONOURABLE ABRAHAM SHEK LAI-HIM, S.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 ALBERT CHAN WAI-YIP

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H., J.P.

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG, J.P.

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

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

DR THE HONOURABLE YORK CHOW YAT-NGOK, S.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

CLERKS IN ATTENDANCE:

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

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

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

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

BILLS

Committee Stage

CHAIRMAN (in Cantonese): We now continue with the debate on clause 4 of the West Kowloon Cultural District Authority Bill.

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

MR WONG KWOK-HING (in Cantonese): Chairman, good morning. With respect to the amendment proposed by Mr SIN Chung-kai, I consider that it is reasonable for us to give it support. Neither the Honourable colleagues in this Council nor the bureaux should have a phobia for conducting open design competitions. Why am I saying that we should not have a phobia for conducting open design competitions? It is proposed in response to the existing administration system of the Government, that is, an executive-led system. The Chief Executive is not returned by universal suffrage, which is an indisputable fact. The composition of the West Kowloon Cultural District Authority (WKCDA) in future will be appointed by the Chief Executive as well, which is also indisputable. It is really necessary for the executive-led system to enhance its art of governance. There is a saying in China, that "ruling a country is just like cooking a small fish". Why "ruling a country is just like cooking a small fish"? This means that the Government has to study the art of management and governance, so that its administration, policymaking and management measures can pool public opinions, carry public views and gain public support, and its governance and management can thus be authorized by a popular mandate. As such, the governance of the Government will carry prestige as a matter of course. If it can duly consider and study this and enhance its art of governance,

small issues will never become big troubles, whilst good things will really bring about benefits rather than harms.

Therefore, from the perspective of administrative management, I consider that the executive-led system should give consideration to two aspects. Firstly, how political room with more and wider consensus can be created for the policies and decisions made by the Government? This is a prime consideration. Secondly, how politics can be absorbed into the administration? Indeed, we have got rich experience. The SAR Government should in fact explore how to learn from the experiences gained over the past tens or even hundreds of years from the governance approach of absorbing politics into the administration. Doubtless, our existing system may not be very democratic, but how can we show respect for public opinions? It is also worthwhile to consider this. Although the existing system is not formed by "one person, one vote", how our administration and policymaking can really be based on public views? If we strive for improvements in this regard, the Government's administration and policymaking can achieve twice as much with half the effort, which is worthwhile for consideration. Therefore, from the perspective of administrative management, I consider that conducting open design competitions will only bring benefits instead of harms to the management and policymaking of the Government.

Now, I would like to turn to the issue of the WKCDA conducting open design competitions for the overall planning as well as the construction of the arts and cultural venues and the exhibition centre in future. I consider that there are at least four merits in conducting open design competitions, which are all raised from the perspective of public administration. The first one is that it can provide a platform for public participation, so that opinions from both the Government and the public can be incorporated into the construction design concerned. Through this platform, both professional and non-professional views can be considered together during the initial design stage, and at the same time, good and excellent ideas can be collected locally and overseas. This platform for public participation can gather different opinions, which is the absorption of politics into the administration. This is the first merit.

The second merit is through this platform, we can consolidate and balance various kinds of opinions, views and even assessments. Chairman, regarding the opinions and viewpoints proposed in respect of the construction design, they

are very often opposite to each other. Beautiful versus ugly; good versus bad; true versus false; high versus low in terms of efficiency and quality; high versus low in terms speed and efficiency; and big versus small. All these contradictions mentioned by me are simply various kinds of opinions and judgments among different people. It is impossible to arrive a universal standard. However, we can make comparisons among these opposite but consolidated opinions during open design competitions and make judgments through debates and criticisms. By eliminating the poor and selecting the good as well as retaining the true and discarding the false, we can naturally come up with better ideas as a whole. It is really a good approach, isn't it? Why do the authorities refuse to take it into account? Is it not very foolish for not doing so? This is the second merit.

The third merit is open design competitions can stimulate and absorb creativity. Creativity can only be absorbed through conducting open design competitions — Prof LAU, you are nodding too, thank you. In fact, you have put forth many ideas in this regard — conducting open design competitions can also achieve a breakthrough in tradition. What kind of tradition? It is a tradition about seniority and precedence. In fact, I had a lot of communication with the construction and arts sectors in the era of the Municipal Councils and was familiar with their hindrances and restrictions. We can only break through these hindrances and restrictions — no matter they are conventional or not — by conducting open design competitions. A lot of boundaries and rules can be broken through open design competitions. At the same time, they can stimulate innovation, create more new ideas and inject more new elements. Such new ideas and new elements can make our public buildings in future move with the times and reflect the pace and trend of the era. This is the third merit.

The fourth merit is that these public buildings are in fact a landmark, especially the West Kowloon Cultural District (WKCD). After years of argument, it will stand on the Kowloon Peninsula upon completion and become a conspicuous cluster of buildings. How can this cluster of buildings attain recognition and acceptance of the public, so that these buildings, which belong to the public, can truly represent them? This point is very important.

Chairman, by the widely recognized buildings I am, in fact, talking about two sides rather than one side of the issue. I would like to quote some lessons here for Honourable Members and the Administration to consider. In the past, the two Municipal Councils also had a lot of buildings. These public buildings

have two "whatevers" — I am not talking about the two "whatevers" in the Mainland, but I just want to use these two "whatevers" to give Members a deeper impression — what have we learnt from these lessons? Whatever a landmark building is formed from designs by the public, it will attain public recognition even though there are a lot of controversies. Whatever a landmark building is not formed from designs by the public, it will be severely denounced no matter how good it is. Therefore, I consider that we should learn from these experiences and lessons and conduct open design competitions. Similar to the new Government Secretariat to be constructed in Admiralty in future, open design competitions should also be conducted. Although a lot of controversies were aroused, and the proposal so selected might not be absolutely perfect — there will never be perfection, Chairman, perhaps you will also agree with me — however, through competitions and public participation, that is, after attaining a popular mandate, the proposal concerned will be recognized by the public more easily. Therefore, based on the four merits and advantages I have just mentioned, I sincerely hope that the Administration can consider accepting the proposal of conducting open design competitions for the overall planning of the WKCD as well as the construction of the hardware such as the cultural venues and the exhibition centre in future.

As for the amendment proposed by Mr SIN, according to my observation, it is really difficult to secure enough votes for its endorsement. However, as we have put forth so many ideas, I still hope that the executive and policymaking authorities can listen to the views raised by us earnestly and sincerely. Even if there is no provision for such competition, and the result is really likely this, I still hope that the policymaking authorities can conduct open design competitions for the landmark buildings in the WKCD. Conducting open design competitions will only bring benefits instead of harms to the effective governance by the senior officials and the Administration in future. I sincerely make this request and do hope that the Secretary can duly consider accepting these views, so as to prevent the buildings in the WKCD from becoming a subject of condemnation among the public for it is impossible to turn back in future. Thank you, Chairman.

MR ALAN LEONG (in Cantonese): The speech given by Mr WONG Kwok-hing just now is really forceful and effective. However, I believe that for the time being, it may not be pleasing to the ears of the SAR Government which is still extremely proud and self-opinionated, pretending to be elites and showing

no respect for the professions. Even if the amendment to paragraph (ba) to subclause (1) in clause 4 to be proposed by Mr SIN later is negated after voting, I hope the authorities, especially the future WKCD, can still duly consider the debate on that clause by this Council.

Chairman, I do not want to waste time unnecessarily and just want to respond to two or three points. First, some Members said that we should allow sufficient flexibility for the WKCD. Even it is not stipulated in the legislation, we cannot rule out the possibility of conducting design competitions by the parties concerned in future. As we have noticed from clauses 6 and 7 that the power of appointment is solely manipulated by the Chief Executive who has been working as a government bureaucrat for several decades, we hardly have confidence to believe that the future WKCD can establish the system advocated by Mr WONG Kwok-hing just now. Of course, the results coming out of this system may not be acceptable to everyone, but most importantly, there should be a system. In view of this, the inclusion of this requirement in the legislation has its unique meaning under the existing political environment. I also thank Mr James TO for reminding me to read through this Script once again. I thus found that we can absolutely support the Secretary on the one hand and support the amendment to paragraph (ba) to subclause (1) in clause 4 proposed by Mr SIN Chung-kai on the other. This is also the stance to be adopted by the Civic Party.

Chairman, during the debate, it is inevitably for us to put forth views in either extremes for the sake of easy elaboration. However, if we can do some careful consideration, we would realize that organizing design competitions is in fact not a big deal. Even if we do not organize design competitions and adopt afresh the "design-and-build" concept proposed by the Government now, do you think that time will not be required for selection? Therefore, it is in fact a way to gain notoriety by telling what problems may arise if design competitions are organized. I personally do not agree that there will be a two to three years' delay if we organize a design competition. However, I mentioned a point yesterday, and that is, even if the worst situation arises, and we really have to wait for another two to three years, so what? I just raise this point casually and do not mean that, as what Mr SIN has said, this open design competition will not have any definition academically or professionally. We have heard from Prof LAU that the way of conducting such a competition can be determined by ourselves, and it does not mean that we have to spend three years on preparation

to make it a well-organized and respectful open design competition. Nor does it mean that if the time on preparation is limited to one year only, we will certainly come up with a "Mickey Mouse" competition. I am afraid it smacks of over-simplifying the discussion, such that it becomes lacking in permission.

Chairman, I already mentioned a point in my speech yesterday, and that is, as clauses 4, 6, 7 and 17 are the three most important parts of the Bill which are interrelated and will affect each other, to put it simply, if the Administration can make more concessions in clauses 6, 7 and 17A later, it will definitely boost our confidence in the future operation. We will be more confident in the establishment of the system or that this WKCD can become a bottom-up structure to reflect public views. With respect to other provisions, we can of course make some concessions as well.

As for the speech regarding clause 4 Chairman, perhaps I stop here.

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

MS EMILY LAU (in Cantonese): Chairman, I speak in support of Mr SIN Chung-kai's amendment. I am very glad to hear that Mr WONG Kwok-hing has related this issue to the universal suffrage of the Chief Executive. This is indeed the best statement. As a matter of fact, every issue should also be related to the universal suffrage. I welcome that Hong Kong Federation of Trade Unions, the Democratic Alliance for the Betterment and Progress of Hong Kong, and so on, to support the early implementation of universal suffrage. If universal suffrage is implemented, this project can be handled more easily, Chairman.

Chairman, regarding design competitions, we have to take the Cultural Centre as an example. Some people say that the tiles used are those for building toilets. It is built by the seaside, which location can be regarded as the best in the world as it faces the Victoria Harbour. Regrettably, it has no windows. How absurd it is! Who built the Cultural Centre? Whose design is it? My dear professor, I think the then director is really very presumptuous. Being a government official, he designed such a building at this best location. Severe

criticisms came from both locals and foreigners, querying if Hong Kong people have any brains. Why can this building be constructed at such a good location? Chairman, if we want to construct a building with no windows, we can in fact build it underground. Why should it be built by the side of the most beautiful Victoria Harbour?

I agree with the landmark mentioned by Mr WONG Kwok-hing. Chairman, you may also put forth your views. If someone wants to take a photo of Hong Kong, what do you think he will take? He will take the Two IFC, the vertical-shaped structure which is just like rubbish. It is so ugly. In the past, some people considered that the building of the Hongkong Bank was the landmark as so much money had been spent on its construction. But now, no one mentions it. At that time, some other people said that the building of the Bank of China could also serve as a landmark. But again, no one mentions it now. Hong Kong does not have any landmarks — in fact, our Legislative Council Building is also very nice. However, no one mentions it, nor does anyone mention the Government Secretariat. Even the Government House, no one mentions it at all. As so much money has to be invested, shall we get something in return? Can we have a landmark which is more presentable? No one can make such a guarantee. However, if we talk about the so-called "design-and-build" approach, these buildings are most horrible. Therefore, I agree with Prof LAU. Do we want to build a car park, a workshop or a matchbox now? I consider that we should give the construction sector room for creation, so that they can draw up plans and take part in competitions. Improvements can be achieved through competition. As such, those rubbish small circles have no way to attain any achievements.

In view of this, I absolutely support and hope that the Secretary should not insist anymore. At the very beginning, the "design-and-build" approach was proposed. After reading the content of the paper, I am so scared. He said: no, this was only to give the WKCDA some flexibility. However, if it was due to the "design-and-build" approach at that time — Chairman, I do not belong to that sector, but I have been working in the Finance Committee for a long time and thus, I know if this approach is adopted, the cost will be lower and the schedule will not be so tight. However, there is no free lunch in this world — upon completion of the design work at a lower cost, I believe that those creative people will not have any chance to put their creativity into play. Therefore, perhaps

the construction sector is also arguing that some want to have this shape whilst others want to have that shape.

As we do not belong to that sector, whom can we represent? We are of course not representing the narrow sectoral interests as mentioned by the Administration; we are representing the interests of the public, Chairman. I also wish to voice out on behalf of the public that people in Hong Kong really want to see some very beautiful landmarks which we can be proud of. When we visit other places and hear someone talking about Hong Kong, such a picture will come to our mind immediately. We can tell them how brilliant Hong Kong is and how beautiful our scenery is. This is what we want to achieve. But can the proposal we are discussing achieve such effect?

If the Secretary insists on passing this project to the WKCDA, I am very worried as mentioned by the Secretary, there were still a lot of considerations. He was afraid of being accused of over spending and the time was also insufficient. As a result, he would have it constructed rashly. As such, will there be any room for designs? Last year, the Director of Architectural Services invited me and a Professor of the University of Hong Kong to attend their competition. In fact, the construction of those buildings had already been completed, but they were still allowed to participate in its competition — some of them were outsourced but were regarded as its projects as well. After selection by the Administration, 10-odd projects were shortlisted. When we took a look at one of the projects, we also considered Chairman, what is it? It is a toilet, a public toilet, which is located by the seaside of Pak Shek Kok at Tolo Harbour in Sha Tin. It is such a simple building which is very small. We also visited the infectious disease wards at Princess Margaret Hospital. It was heard that some drawers had dropped down recently. There was something wrong and so, we went there to have a look. We also visited the headquarters of the Independent Commission Against Corruption. Yesterday, some Members also said that the new headquarters was very beautiful. We had visited many parts of it and the building was really very grand. We could sense the efforts made by the architects even at the first sight. There was a small building, which only occupied an area of a few seats here. Therefore, I consider that if we ask the sector to present their masterpieces for us to take a look, why is it not possible to do so?

Moreover, Chairman, as for the proposal of organizing an open design competition, some people said that it would take two to three years' time. If it is an international competition, I believe the time required will be even longer.

Perhaps, Prof LAU can talk about the problems in this regard again. Recently, a paper of the Finance Committee also mentioned the organization of some design competitions, but it was not stated whether they would be international competitions or not. Some even stated that the competition would only be open to Hong Kong. I was so shocked at reading it. I asked why it should be stated the competition would be exclusive to Hong Kong. They said: no, although it was a competition for Hong Kong, a lot of international companies were also registered in Hong Kong. In other words, Hong Kong can specify a lot of requirements. I believe that if it takes five to six years to conduct design competitions, I also consider that the time required is a little bit long. However, I agree with Mr Alan LEONG and other Honourable Members, that we can settle the problems in this regard. If the final champion of the design competitions is very beautiful and brilliant, as mentioned by Mr LEONG, does it matter to wait for a few more years? The site has been left idle under the scorching sun for two decades, why can't we wait for a little bit longer to get some good designs?

Therefore, Chairman, I fully support Mr SIN Chung-kai. However, I do not believe that the situation will be so pessimistic as mentioned by some Members, saying that Mr SIN Chung-kai's amendment will definitely be negated. It is because I believe many Members do hope that this project can allow certain things to be released, so that Hong Kong people's originality can be brought into full play to achieve fruitful results.

MRS SELINA CHOW (in Cantonese): I will not take too much of Members' time. However, after listening to the speeches given by the several Members just now, I consider that they still have some confusions about the concept, thinking that we will certainly come up with excellent designs if open design competitions are organized.

As a matter of fact, looking at the architectural designs around the world, the most famous and conspicuous buildings are not designs coming out of any competitions. For example, the Sydney Opera House is definitely not a result of any competition. Taking the existing building of the Disney at the town centre in Los Angeles as another example, it is also not a result of any competition. Recently, the most conspicuous one is the building designed by Frank GEHRY. Many famous designs are in fact masterpieces of famous designers, but not results of any international competitions.

I am not saying that international competitions will never yield good designs. However, I consider that if we are so subjective, thinking that the designs coming out of open competitions will certainly be better than those which are not, we are wrong. This is the first point. Secondly, all conspicuous and famous designs around the world are very controversial. Why? It is because subjective preference is involved, which is solely a matter of personal preference for a certain design. For example, how many years has the Sydney Opera House been erected? It has been there for more than two decades. Chairman, there are still a lot of controversies about its merits and demerits at present. Many Australians are still arguing how bad it is and criticizing its demerits. There are also divergent opinions. In view of this, after a champion design is selected from a competition, the public will consider that it is good or our panel of judges will consider that it is good. And in conclusion, this should be an excellent design. However, the actual situation is definitely not like this.

In fact, creative works, first of all, often involve very subjective perceptions. Secondly, different people may have different opinions, and there can be no absolute judgment. Some people may consider that there are some excellent designs. For example, when you visit Barcelona, many people highly praise the buildings of GAUDI, but some may consider that his works are very ugly. This is a matter of subjectivity. Are you willing to say that the design of GAUDI is not good? I believe not so many people are willing to do so. However, "like it or not" or "it's really ugly!" are subjective opinions. We have to understand that insofar as creative works are concerned, it is not a case of it should be beautiful if many people find it beautiful; and it should be good if many people find it good. It is not the case. Creation, as you may say, is in fact the freest kind of knowledge.

Therefore, after listening to Members' speeches just now, I think we are arguing that if open design competitions are organized, the designs so obtained will certainly be better than those not coming out of open competitions. I absolutely do not agree in this regard. Thank you, Chairman.

MR ALAN LEONG (in Cantonese): Chairman, I am not prepared to break my promise, but I do have something to say.

In both the speech I have given just now and the one I delivered yesterday, I pointed out "conducting open design competitions is basically a means to

achieve public engagement, which is not an objective itself". Therefore, the argument put forth by Mrs Selina CHOW just now, saying that some Members mentioned in their speeches that "we will certainly come up with excellent designs if open design competitions are organized" does not hold water. I just want to make this point.

PROF PATRICK LAU (in Cantonese): Excuse me, Chairman. I have to correct a remark made by Mrs Selina CHOW just now.

The design of the Sydney Opera House was the result of a design competition that had taken a very long time. If the Chairman can give me some time, I can tell Members the whole story.

CHAIRMAN (in Cantonese): You have 15 minutes only.

PROF PATRICK LAU (in Cantonese): 15 minutes. The Sydney Opera House was constructed two to three decades ago. At that time, just like the Hong Kong Government, the Sydney Government considered it necessary to construct a cultural centre. Therefore, an international design competition was held, attracting many architects from all over the world, which was really a big event in those days.

Well, a young architect from Denmark called UTZON participated in this competition. However, in a design competition, judges are the most important thing because the champion design will be selected by them. Their decision must command recognition. This is very important. As such, in organizing design competitions, we should appoint competent judges with an esthetic sense. This is of the utmost importance.

At that time, there was a very important and famous architect in the United States called Eero SAARINEN. He was one of the judges. If you have been to the airport in New York and seen the TWA Airport, you will notice that it looks like a flying bird, which is a very innovative design. In fact, he was late at that time. Perhaps, it took a very long time flying from the United States to Australia in those days. Other more conservative judges had selected a conservative design, which might be similar to our existing Hong Kong Cultural

Centre. However, when SAARINEN arrived (of course, he was one of the judges), he chose, among other plans, the design submitted by UTZON which outlook was like a sailing boat. He then decided that it was the champion design.

The question is this young architect, UTZON, was not equipped with adequate experience to construct the building and thus, it took 10 years to complete the whole process. The construction works had become a hot topic on newspapers in Sydney as the project had all along been over-budget. This is a problem, but it is not the most important point. What has just been mentioned by Ms Emily LAU is correct. If we now ask the whole world which building can best represent Sydney, the answer must be this opera house.

At that time, due to the structural problems, many engineers did not know how to implement the works and a very long time had thus been spent. Eventually, with the invention of computers, a number of problems were resolved and the Sydney Opera House could then be completed. What I wish to correct Mrs CHOW relates to this question: Why was it necessary to organize a design competition for the Sydney Opera House? She mentioned many important buildings just now and all of them have gone through design competitions as well. In Hong Kong, the design of the new building of the Hongkong Bank was selected from a design competition, whilst the design of the Passenger Terminal Building of the Hong Kong Airport is also the result of a design competition. As for the buildings mentioned by her, all of them are selected from design competitions without any exception. It is only a matter of different approaches, Chairman.

Many design competitions are conducted in different manners. Some have set a number of restrictions and I already mentioned them yesterday. In the restricted design competitions, we can invite a number of architects to present different opinions jointly. One of the advantages, as rightly presented by Mr WONG Kwok-hing just now, which is also the most important one, is the third point mentioned by him, the role of creation. As for opportunities we are now talking about, they are equally important. No matter we offer opportunities to the architects in Hong Kong or those from all over the world, the most important concept is that they can express how the building represents the cultural centre in Hong Kong. If we have such a good chance but do not make use of it, Chairman, we would just let slip a golden opportunity.

Moreover, I wish to tell Mrs CHOW that we have in fact organized design competitions for all planning. This point is very important. Bilbao, what we are talking about, has also held such competition, okay? Chairman, all large-scale public designs, especially those very important ones in the United States, are results of design competitions. And it is stipulated in the Constitution of China that, whenever important public buildings are to be built, all designs should be selected through different kinds of competitions. As for the planning of the competition venues for the Olympics at present, design competitions have been organized as well. Chairman, I have also participated in it. But it does not mean that as I am one of the top architects around the world, I have to take part in the competition. The meaning of participation is to present our views to the public. The eyes of the people are always discerning and they will certainly find suitable judges.

Why would they ask Mrs CHOW to be a judge? They recalled the contribution made by Mrs CHOW to the cultural sector and so, they chose her as a judge. At that time, we had gone through such a selection process. And why could I also be one of the judges? There are justifications. When we have different opinions, we can have communication. This represents that the public can come up with the best design through the process of selection.

Therefore, Chairman, if I do not voice out all of the above, I will be unfair to both my sector and the whole construction sector for being unable to explain the details of design competitions. In fact, many books have discussions on the problems in this aspect. Every institute has its own rules for design competitions. They will assist the Government to achieve integration and organize the events in a reasonable and expeditious manner. In fact, it is not the case as Members have just described — whenever design competitions are held, it is bound to have problems. Of course, problems may arise, but it is not a certainty. The most important point is about the landmark buildings we have discussed just now. What is the La Tour Eiffel? Its design was also selected from a building competition. Therefore, please do not say that certain buildings are not the results of design competitions, okay? Why? Whenever there is a special need for innovation, we should adopt the competition approach for stimulation. Therefore, building competitions are in fact very common. But now, we regard competitions as such a big issue. In fact, I consider that holding competitions is only one of the approaches for inviting designs. Thank you, Chairman.

MRS SELINA CHOW (in Cantonese): I must thank Prof LAU, as he is an expert but I am not. He has corrected my mistakes and pointed out the actual situation of the Sydney Opera House for the record. It is good. Thank you very much.

However, I believe the Professor should have heard of the following examples. In recent years, designs of many public art buildings are not results of design competitions, why? This is due to some special reasons. The MoMA in New York and Japan has a new I remember that Japan seems to have one as well, with such a design. As for the extension of the Guggenheim Museum, neither is it a result of any design competition. Take the Suzhou Museum as another example. It is designed by Mr I. M. PEI, which is not a result of any design competition.

Chairman, I would like to stress one point and that is, I am not saying that design competitions are undesirable in comparison. I have not made such a comment. What I mean is, in order to accommodate the approaches of organizing and not organizing design competitions in my view, both of them may identify excellent designs which are up to the international standard and highly praised around the world. And thus, organizing design competitions is not a must. Therefore, if we do not stipulate in the legislation that design competitions must be organized, it will bring about more freedom and flexibility. I just want to raise this point. I do not wish to give a comment in this debate that design competitions are undesirable. I do not mean that.

Thank you, Chairman.

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

MR WONG KWOK-HING (in Cantonese): Chairman, today's debate is a continuation of the debate last night. This debate brings back memory of the controversies aroused in relation to the outlook design of the Central Library by the former Urban Council years ago. The debate at that time was so heated, and it called for our deep thoughts. However, why did we come up with such a debate today?

Chairman, some Members have mentioned just now that the results of open design competitions might not necessarily be the best. This is a fact. Some other Members said that more time would be required in case open design competitions are organized. This point may not be true or can even be regarded as misleading. Just as the second of the four merits I mentioned just now, fast, slow, true and false can often be compared and assessed in competitions for corroboration. Therefore, it may not be absolute.

Chairman, I would like to take this opportunity to ask the Government again to consider seriously why the Hong Kong Cultural Centre has all along been subject to severe criticisms from both the professionals and the public since its completion. Undoubtedly, someone may of course find that it is a very good art building. As both sides have their own reasons, why does it fail to attain recognition from the public? In fact, this lesson is so impressive, and I have to raise this point once again today.

Therefore, I absolutely support the analysis and evidence advanced by Prof LAU just now. Prof LAU belongs to the construction sector and he is also a professor in the Faculty of Architecture in a university. Every word of his speeches is very convincing and it is really worthwhile for us to consider the facts put forth by him. As such, I would like to point out particularly that being a management system of the executive-led government, the Government should give due consideration to the adoption of consensus politics and absorbing politics into the administration. These two points are the keys of success of the British's rule over Hong Kong during the past hundred years or so. I think the SAR Government should take this into consideration today. It is an indisputable fact. No matter what the argument is, the fact is simply like this. Therefore, I think if the Government is so smart and intelligent and if it really cares about the art of governance, it should duly consider organizing open design competitions for these landmark buildings.

Thank you, Chairman.

PROF PATRICK LAU (in Cantonese): Excuse me, Chairman. I have to correct the remarks given by Mrs Selina CHOW again as what she has mentioned might not be correct, because even the MoMA Museum in the United States is also a building produced by an open design competition. The most important point is that she has raised an issue on which I really want to comment.

She mentioned that Mr PEI had built the Suzhou Museum. As a matter of fact, Mr I. M. PEI had taken part in a lot of open design competitions and became famous as a result. Chairman, this is very important. Having made a name for himself, Mr PEI got a lot of jobs in his career. Many people approached him for design work. As such, he decided not to participate in building competitions anymore. But it does not mean that he considers building competitions not a desirable approach. Most importantly, Mrs CHOW may recall and Mrs CHAN may also know that in constructing the WKCD, we have invited Mr PEI to be our consultant. I have also met with Mr PEI and had a long discussion with him. The answer he gave to the SAR Government was: he considered that a design competition should be organized for the planning of the WKCD, and this is the reason for us to organize a design competition. If we invite Mr PEI to be our consultant again, he may not take up this role, but will certainly give us some good ideas on what we have to do.

In this regard, if we show respect for this old man, he will also explain to us why he considers it necessary to adopt the approach of organizing design competitions. Therefore, I do not want to give any comments on this issue. I simply tell Members some facts, so that they can obtain more accurate information in this regard to prevent the causes and consequences of the whole process from being distorted. Thank you, Chairman.

CHAIRMAN (in Cantonese): At this stage, I have already sensed that the Members are very interested in the design and the design competition. However, I propose that we had better concentrate our discussion on the clauses concerned. If we want to discuss the design or the design competition, we can leave it to the next term and move a Member's Motion, so that we can have a thorough discussion again by that time.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai, do you wish to speak again?

MR SIN CHUNG-KAI (in Cantonese): I will speak for two minutes only.

First of all, I would like to thank a number of colleagues, including Mr WONG Kwok-hing and Prof LAU, who have enriched my debate. In fact, my

speech in moving the amendment only lasted five minutes. Your speeches are much longer than mine and more viewpoints are raised. However, I still want to borrow a phrase from Mrs CHOW and, that is, "to put it bluntly". It is her pet phrase. She likes using it very much. "To put it bluntly", the Government in fact does not want to organize any competitions. They hold that competitions should not be stipulated in the Bill so as to allow some flexibility! However, once there is such flexibility, no competitions will be organized. In view of this, we have to stipulate that competitions must be organized.

In fact, I totally agree that insofar as architecture is concerned, there are designs from famous designers as well as from competitions. Both of them can come up with excellent works and they are not mutually exclusive. However, under the situation in Hong Kong nowadays, our Government Headquarters is also constructed in the design-and-build approach, which was selected and graded by the public. I believe some Hong Kong architects must have been involved, but their participation was not in the form of competition. Therefore, we do not have many buildings constructed in this way, and we do not have many landmark buildings constructed in this way. As such, we consider that regarding this land which has been left idle under the scorching sun and lashing rain over the past 10-odd years, public participation is indeed very important.

On the issue of competitions, I will not discuss it anymore. I just want to talk about clause 4 again as we will proceed to vote on it upon completion of our discussion on this clause. Prof LAU, I must reiterate that we will have a separate voting for clause 4(1)(ba). Even if you support the Government's amendment to clause 4(1), you can still vote separately to support my amendment. As for the subsequent voting, it is related to the question that the WKCDA should perform its functions in ways which aim to achieve its objectives. I would like to tell Mr Alan LEONG that my amendment is different from that of the Government only in one sentence and, that is, "to recognize the right of everyone to take part in cultural life".

Therefore, I invite Honourable colleagues from the Civic Party once again to consider abstaining or even voting against the Government's amendment, and support my amendment. It is because in comparing my amendment with that of the Government — the Government's amendment is from (A) to (N) whilst ours is from (A) to (O) — the difference of our amendment from (A) to (O) from that

of the Government is simply an insertion of one sentence, "to recognize the right of everyone to take part in cultural life", which is Article 15 of the International Covenant on Economic, Social and Cultural Rights. It is very simple.

I so submit. I have spoken for 30 seconds more.

CHAIRMAN (in Cantonese): Secretary for Home Affairs, do you wish to speak again?

(The Secretary for Home Affairs indicated that he did not need to speak again)

CHAIRMAN (in Cantonese): Secretary for Home Affairs, you may move your amendment.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Chairman, I move the amendment to clause 4(1)(a).

Proposed amendment

Clause 4 (See Annex III)

CHAIRMAN (in Cantonese): Before I put to you the question on the Secretary for Home Affairs' amendment, I wish to remind Members that irrespective of whether that amendment is passed or negatived, Mr SIN Chung-kai may move his amendment to clause 4(1), and the Secretary for Home Affairs may also move his amendment to clause 4(2).

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Mr SIN Chung-kai, you may move your amendment.

MR SIN CHUNG-KAI (in Cantonese): Chairman, I move the addition of paragraph (ba) to clause 4(1).

Proposed amendment

Clause 4 (See Annex III)

CHAIRMAN (in Cantonese): Before I put to you the question on Mr SIN Chung-kai's amendment, I wish to remind Members that irrespective of whether that amendment is passed or negatived, the Secretary for Home Affairs may move his amendment to clause 4(2).

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr SIN Chung-kai be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr Fernando CHEUNG, Prof Patrick LAU and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong voted against the amendment.

Mr Bernard CHAN abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG and Mrs Anson CHAN voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 20 were present, nine were in favour of the amendment, 10 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, 14 were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): Chairman, I move that in the event of further divisions being claimed in respect of the remaining clauses of the West Kowloon Cultural District Authority Bill or amendments thereto, the Committee do proceed to each of such divisions after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the remaining clauses of the West Kowloon Cultural District Authority Bill or amendments thereto, the Committee do proceed to each of such divisions after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): Secretary for Home Affairs, you may move your amendment.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Chairman, I move that clause 4(2) be amended.

Proposed amendment

Clause 4 (See Annex III)

CHAIRMAN (in Cantonese): Before I put to you the question on the Secretary for Home Affairs' amendment, I have to make it clear that if that amendment is passed, Mr SIN Chung-kai may not move his amendment to clause 4(2).

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Dr Raymond HO, Ms Margaret NG, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Ms LI Fung-ying, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Alan LEONG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Ronny TONG, Prof Patrick LAU and Miss TAM Heung-man voted for the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr YEUNG Sum, Ms Emily LAU and Mr LEE Wing-tat voted against the amendment.

Mrs Anson CHAN abstained.

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

THE CHAIRMAN announced that there were 41 Members present, 30 were in favour of the amendment, nine against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the amendment was carried.

CHAIRMAN (in Cantonese): As the Secretary for Home Affairs' amendment has been passed, Mr SIN Chung-kai may not move his amendment to clause 4(2), which is inconsistent with the decision already taken.

CLERK (in Cantonese): Clause 4 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 6 and 7.

MR ALAN LEONG (in Cantonese): Chairman, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(5) of the Rules of Procedure be suspended in order that this Committee may consider the schedule together with clauses 6 and 7.

CHAIRMAN (in Cantonese): As only the President may give consent for a motion to be moved to suspend the Rules of Procedure, I order that Council do now resume.

Council then resumed.

PRESIDENT (in Cantonese): Mr Alan LEONG, you have my consent.

MR ALAN LEONG (in Cantonese): President, I move that Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider the schedule together with clauses 6 and 7.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider the schedule together with clauses 6 and 7.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

Council went into Committee.

Committee Stage

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

CLERK (in Cantonese): Schedule.

CHAIRMAN (in Cantonese): Mr James TO, the Secretary for Home Affairs, Miss CHAN Yuen-han and Mr SIN Chung-kai have given separate notices to move amendments to clause 6, and Mr Alan LEONG has also given notice to move amendments to clause 7 and the schedule.

CHAIRMAN (in Cantonese): Members may now debate on the original clauses 6 and 7 and the schedule, and the amendments to the relevant clauses proposed by Mr James TO, the Secretary for Home Affairs, Mr Alan LEONG, Miss CHAN Yuen-han and Mr SIN Chung-kai jointly. I will now call upon Mr James TO to speak first, to be followed by the Secretary for Home Affairs, Mr Alan LEONG, Miss CHAN Yuen-han and Mr SIN Chung-kai; but no amendments are to be moved at this stage.

MR JAMES TO (in Cantonese): Chairman, I would like to amend clauses 3 and 6. As I pointed out during the Second Reading debate, insofar as the composition of the Board is concerned, it is most desirable that not all members on the Board are appointed by the Chief Executive. For I believe this can ensure the participation and expression of opinions by the public. We will be more confident that the Government's established practice on making appointments purely on the principle of affinity differentiation will be rectified.

Therefore, my amendments aim to include on the Board some members selected by elections, thus enabling the members in the field of arts and culture now returned by appointment under the legislation be returned by election three years later. With regard to the election procedure concerned, local users of the WKCD, including organizations or individuals other than those in the field of

arts and culture, may register as electors. This will enhance the credibility and representativeness of the public, including members of the arts and cultural sector, in participating in the management of the WKCD.

Chairman, my amendments will indeed give the authorities concerned enormous power to design and arrange the election. Certainly, if the Government, the authority concerned, only follows the practice now adopted for certain functional constituencies, in which only several hundred electors are eligible to vote, I believe it will stir up a hornet's nest in society. As it is obvious that If my amendments are passed, I hope the spirit of these amendments will encourage maximum participation, particularly the participation of the public and the arts and cultural sector. The proposal indeed has flexibility. It will allow the Government to play its part and public participation on the one hand, while preventing the Chief Executive from acting in a hegemonist manner on the other, for members of the Board must be returned by election. Only with this proposal can a balance be struck between these two aspects.

Similar election mechanisms have been put in place in some existing organizations, such as the Hong Kong Arts Development Council (HKADC) and the Hong Kong Arts Centre (HKAC). Of the 20 members of the HKADC, 10 are representatives selected by specified organizations or groups of organizations within the arts and cultural sector, while the Chief Executive will make the appointment upon receiving the nomination. This arrangement is slightly different, for the appointment is ultimately made by the Chief Executive. However, this system has already developed a convention, it is thus difficult for the Chief Executive to refuse appointing those elected representatives, and he will have to explain the case if he does so.

I only wish to point out that the existing organizations mentioned above have already put in place an election mechanism. In the case of the HKADC, the Chief Executive may by notice in the Gazette specify 10 arts fields, including literary arts, music, dance, drama, visual arts, film arts, arts administration, arts education, arts criticism and Xiqu, and each of them will nominate one representative to the Chief Executive for appointment as members. However, according to the proposal under the Bill, members of the Board will not be selected through consultation, nor has a mechanism been put in place for

recommending candidates selected to the Chief Executive for appointment. The proposal of the Government, that is, the proposal the Secretary for Home Affairs insists on implementing, does not provide at the very least a mechanism that allows the organizations to select their representatives through consultation and recommend them to the Chief Executive for appointment. Therefore, I will say that it is not even on a par with the HKADC. I am referring to the so-called statutory interface, allow me to use this term, between the Government and arts groups.

The number of members on the Board of Governors of the HKAC is capped at 15. Apart from the three members appointed by the Chief Executive, two members are elected by individual members and another two members are elected by organization members of the HKAC, while at least four but not more than seven members are co-opted by the appointed and elected members. In other words, members of the Board of Governors are elected by individual members and organization members of the HKAC. Though the election method just mentioned may not be perfect, it has manifested the people-based and community-led principle in some measure. In fact, it is worthwhile to follow this approach in the Bill on the West Kowloon Cultural District Authority (WKCDA). The Democratic Party thus proposes this amendment, which aims to enable some of the Board members of the WKCDA, who are now returned by appointment, be returned by election three years later. Certainly, this must be left to the WKCDA to negotiate with different sectors and encoded by way of subsidiary legislation after detailed examination.

The primary requirement imposed by the Democratic Party on the principal legislation is that local users of the WKCD should be granted the right to vote. This requirement may allow more stakeholders, including arts and cultural organizations or individuals, as well as users of arts and cultural facilities and venues at the WKCD, to take part in the election of members of the Board. The merit of selecting members of the Board by election is that capable and suitable candidates can be identified through an open and fair selection process, preventing the Chief Executive from holding ultimate power, adopting the affinity differentiation approach, dividing the "political loots" and practising cronyism.

There were blunders in the past. Many examples were found, and a number of statutory organizations were criticized for spending lavishly. In the

light of the recent row on the appointment of Under Secretaries and Political Assistants, we wish that a similar situation would not recur. Therefore, by means of this amendment, it is hoped that factors preventing the Chief Executive from making all the decisions on his own will be introduced into the Bill. Chairman, I would only put forth this amendment.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Chairman, clause 6 of the West Kowloon Cultural District Authority Bill (the Bill) stipulates the composition of the Board of the West Kowloon Cultural District Authority (WKCD). I will move an amendment to clause 6 later on, and they have suitably incorporated the views of the Bills Committee.

First, I propose to amend clause 6(3)(c) to stipulate clearly that the Board, apart from the Chairman, the Chief Executive Officer and three public officers, should consist of not less than eight and not more than 15 other members who are not public officers. I also propose to amend clause 6(3)(c)(i) to tighten suitably the appointment criteria for the five or more members who have a background in the field of arts and culture. They should be of good standing in the field of arts and culture in the Mainland, Hong Kong or any other place; or have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities. The amendment aims to ensure the professionalism, representativeness and credibility of persons from the field of arts and culture joining the WKCD.

I will also propose the addition of a new clause, clause 6(3)(c)(iii), stating that apart from the five or more members mentioned above, the member who is a Member of the Legislative Council, the Chairman, the Chief Executive Officer and the three public officers, other members of the Board should possess the relevant expertise and experience, including experience in management, engineering, planning, architecture, landscape architecture, surveying, accounting, finance, education, law or community service, or other professional or experience.

Clause 6(8) of the Bill specifies that the number of Board members who are public officers should not exceed the number of those who are not public officers. I propose the deletion of that clause, as it is stipulated in clause 6(3)(d) that the Board consists of three other members who are public officers, and that clause 6(3)(c) after amendment states that the Board should consist of not less

than eight and not more than 15 members who are not public officers. According to these clauses, the number of Board members who are not public officers will definitely exceed the number of those who are public officers, it is thus unnecessary to specify that requirement in clause 6(8). This amendment, which is technical in nature, is proposed after considering the views and suggestions of the Bills Committee. I implore Members to support this amendment.

I would now respond to the amendments proposed by the several Honourable Members. As I said in the resumption of the Second Reading debate yesterday, the WKCDCA has to shoulder extensive and numerous responsibilities, it is thus necessary to appoint persons with different professionalism and experience to the Board at different stages of development, so that they can work closely together towards a common goal in performing the functions of the Board. The current proposal on the composition of the Board aims to ensure a diversified and balanced composition of Board members. As the categorization for persons with a background in the field of arts and culture is rather complicated and the categories involved are numerous, it is thus inappropriate to include in the law detailed arts and cultural categories as a consideration for appointment.

Moreover, those amendments fail to give a clear definition to the terms used for various arts and cultural categories, such as the term arts and culture planning, as well as arts and culture interpretation. This may give rise to problems in the interpretation of law, rendering the enforcement of the legislation difficult.

Second, it is about the screening mechanism. Since it is difficult to define clearly the principles involved in detail, the inclusion of such a mechanism in the legislation will make enforcement difficult. Moreover, the proposal to require all appointments to be scrutinized by an independent organization, if implemented, is different in nature from the existing appointment system for members of statutory organizations. The introduction of changes of this nature is a significant policy issue which must be examined and discussed thoroughly. It is undesirable to include this in the Bill in a hasty manner.

Besides, the Chief Executive Officer is the highest executive officer of the WKCDCA, it should thus be left to the WKCDCA to consider the candidates according to its needs and make recommendation to the Chief Executive for the approval of the appointment. If the appointment to this post is also subject to

the specified selection mechanism and the scrutiny of an independent body, it will undermine the autonomy of the WKCD in employing the most suitable executive officer.

Third, we must bear in mind that the WKCD is an organization responsible for the promotion of cultural development and the construction of the cultural district, but not a political framework. If representatives of various sectors are selected by an election mechanism, they will inevitably represent the interests of their sectors, which may not be entirely consistent with the overall objective of the WKCD at different stages of development. Besides, a comprehensive registration system for qualifications in the field of arts and culture has not yet been put in place. Persons in the field of arts and culture hold divergent views on this issue and a clear consensus has not yet been reached. Some qualified persons with good standing may not be able to join the Board through election, and it is thus inappropriate to make it a mandatory requirement that an election mechanism must be introduced at present or in a specified year.

Fourth, the WKCD project is mainly an arts and culture project, where information technology may not necessarily have a direct relationship with the project, it is thus inappropriate to include this as one of the criteria for the appointment of Board members who are not public officers. Certainly, it cannot be ruled out that members appointed may include persons from the information technology sector.

Lastly, though it is not stipulated in the Bill that the Board member who is a Member of the Legislative Council should be elected by Members from among themselves, it has not ruled out the possibility that Members can co-opt a Member for appointment by the Chief Executive. Hence, I implore Members to support the amendments proposed by the Government and negative the amendments proposed by Mr James TO, Mr Alan LEONG, Miss CHAN Yuen-han and Mr SIN Chung-kai.

Thank you, Madam Chairman.

MR ALAN LEONG (in Cantonese): Chairman, at some public hearings held by the relevant Subcommittee, many friends put forth a lot of views to us. However, at one of these hearings, we discussed whether the Board of the future WKCD should consist of members returned by election. I recall that Dr HO

from The Chinese University of Hong Kong had given a very incisive remark. He said that in the existing political framework in Hong Kong, there was no universal suffrage, nor was there a government elected by "one person, one vote" and being seriously accountable to the public. He thus understood why we strived for the inclusion of an election mechanism in these statutory committees. Dr HO felt helpless about this, for he thought the unnatural inclusion of election at the mid-level of these statutory organizations responsible for execution, particularly organizations responsible for specialized areas like arts and culture, was neither fish nor fowl. Regarding the observation of Dr HO, I accord it great respect. However, we must understand that the problem causing his helplessness cannot be addressed or solved in a short time.

Chairman, I hope that the people of Hong Kong will understand why we attach great importance to clauses 6, 7 and 12, the three clauses involved in my amendments. Clause 6 is on the establishment of the Board. Clause 7 is on the appointment of the Chief Executive Officer. Clause 12 is on the inclusion of the schedule, stipulating the procedures for the appointment of Board members and the Chief Executive Officer, as well as other arrangements related to Board matters.

Chairman, the success, or failure, of the WKCDA hinges on a crucial factor, people. We definitely hope that we can identify persons who have commitment, feeling and passion in arts and culture, and that they will help the people of Hong Kong to develop Hong Kong into an international cultural metropolis. For this reason, we wish to stipulate unequivocally in the provision a relevant mechanism. Pardon me for emphasizing recently issues which should not require frequent discussion, I am referring to institutions. Now, I have a very strong feeling that we must treasure our institutions, particularly in the light of the mess with the appointment of Under Secretaries and Political Assistants, for an institution will not vary according to individuals. Mankind has never been trustworthy, Chairman, including I myself. Today, in this Chamber, I can speak about it clamourously and distinctly, for I have no power. Perhaps when I have the power, I may also be blinded and corrupted by the power. Therefore, it is most important that a sound system is put in place when we are sober. Actually, the system in Hong Kong has all along been the envy of others. It has all along been operating effectively, for it absolutely will not be altered substantially due to personnel change.

Chairman, I surely understand the origins of the amendments of Mr James TO, and I have cited the regrets and helplessness of Dr HO. This is not my initial amendment to clause 6. Originally, I proposed the inclusion of a schedule — this is included in the record of the Bills Committee, for I had put it on record — for the establishment of a selection committee, and Board members should be selected by the committee and then appointed by the Chief Executive. The Chief Executive would have no choice. The appointment of the three selection committee members is a cut-in point where the Chief Executive may exercise his power.

However, I thought a moderate approach might be more acceptable to the Chief Executive. As such, I opt for the second best approach. I gave up proposing to establish a selection committee, but in its stead, I proposed the requirement on the Chief Executive to comply with the principles and procedures set out in Part 5 of the Schedule in appointing Board members. I will be satisfied if this can be achieved. Chairman, what is Part 5 about? Actually, the aim of Part 5 is to include the Nolan Principles, a frequently mentioned term in the debate on the WKCD, in the legislation. The Secretary said earlier that it would be difficult to set down these objective criteria. I have indeed done so, but not to the satisfaction of the Secretary probably. But, in response, the Secretary did not improve it, nor did he try to make it more comprehensive, but just asked all the Members to oppose my proposal. I think his attitude is out of step with the times. If you tell the people of Hong Kong that the present Bill proposed by the Government, with the amendments proposed by the Secretary today, cannot preclude the appointment of Norman CHAN, the Director of the Chief Executive's Office, as the Chairman, and the recurrence of the row on the recruitment of Under Secretaries and Political Assistants sparked off by him in the WKCDA, as I mentioned during the Second Reading debate, I believe this will send a chill down the spine of the people of Hong Kong. I am not raising alarmist talk, for this is a very real possibility.

In the absence of an objective system, an objective benchmark and objective criteria, how can I comment and judge whether the candidates appointed by the Chief Executive are the most suitable candidates who can develop Hong Kong into an international arts and culture metropolis? Chairman, Part 5 of the Schedule sets out the seven rules adopted under the Nolan Principles, including no private interests should be involved and that fairness should be considered and achieved. Besides, the requirements on procedures set out are very humble. I only hope that the selection procedure

involved in the appointment of Board members or the Chief Executive Officer by the Chief Executive will include the following elements. First, there should be public announcement of the particulars and requirements of the vacancy; second, the procedure and criteria of appointment should be publicized; third, appropriate resources should be provided for the selection process; and fourth, a written record of the entire selection process should be kept.

Chairman, in the appointment of Directors of Bureau, Political Assistants or Under Secretaries, the SAR Government should announce the particulars and specific requirements of the vacancies concerned at the time, and made known to the public the procedures and criteria adopted in the appointment, say the candidates should do political analyses and have a very extensive network in the political field. I dare say that had it set out those principles, people would have volunteered. The most important point is that, before a decision of appointing or not appointing certain candidates is made, a written record of the entire selection process should be kept. This will ensure that public power — the power of appointment is a very important public power, Chairman — will not be exercised to achieve private ends or as a form of political reward. Actually, I think these requirements are most humble.

I have heard no convincing reason from the Government for its opposition. I wonder why, after the row on Under Secretaries and Political Assistants, the senior officials of the Government still fail to reflect on themselves. This is really worrying. The Chairman may still recall the attitude adopted by the Chief Executive in the podium on that day. I did say at the time of the debate that it was a dangerous sign. I hope that the Chief Executive, awake from his dream in the middle of night, will ask himself whether he has distanced himself from the public. Has he been at the top of the mountain too long? It will be good if he can take a day off and come down once in a blue moon.

Chairman, as people is a crucial factor to the success, or failure, of the WKCD, we earnestly hope that a system can be put in place. We will rest assured and feel relieved by then, for we can choose the *crème de la crème* among elites to serve Hong Kong. Certainly, under the existing system which the highest official in power is selected, it is perhaps quite difficult for him to give up his elite mindset or position immediately to be humble. However, this is probably a situation that will certainly arise if we are to make improvement to the WKCD and Hong Kong as a whole.

Chairman, I surely hope that colleagues will support my amendments, for they represent a conclusion of the discussions and debates held over the years. We earnestly hope that the aspirations of the people of Hong Kong for arts and cultural projects will be implemented, fulfilled and realized. In this regard, the Board and the Chief Executive Officer play a pivotal role among all the key characters. We lose confidence in the "hand-picked" appointment practice adopted by the Chief Executive, not only because of the row on Under Secretaries and Political Assistants, but also because of reports in the community that officials well-versed in this Bill will be transferred to other postings upon the passage of the Bill. We are anxious about this. These officials have spent a lot of time to foster their relationship with the sector and the Legislative Council, but once the Bill is passed, they will be transferred to other postings. What is the point of doing so? This makes me worry that if a system cannot be established, appointments to the WKCD will become another type of political rewards, purely reserved for people who toe the line of the Chief Executive. This will be a loss to Hong Kong. Thank you, Chairman.

MISS CHAN YUEN-HAN (in Cantonese): During the scrutiny of this Bill, we hoped that the WKCD project would be a success, and we noticed that the community had a lot of expectations for the project. As I pointed out repeatedly yesterday, in our long participation in the work of the Subcommittee and the scrutiny of the Bill, aspirations of all kinds had been expressed by a lot of organizations. It is essential that these aspirations are transformed into concepts of the civil society and be included in the management of the WKCD. Honestly, with regard to the scrutiny of a certain part of the Bill, the composition of the Board, I have put forth a lot of views. Moreover, shortly, I will put forward more views on the amendments to the preparation of the development plans, for this is related to connectivity with the old districts, that is, the integration of the economies in old and new districts.

In this regard, with the help of professionals from several different sectors, I transformed the scrutiny work into an interactive process and then drafted an amendment. Why do I say so? For this is not my original amendment. Actually, as a number of colleagues said earlier, we have been humble and adopted an interactive approach in discussing the proposals with the Government. Honestly, the Government has already incorporated into its amendments some of the content of our amendments. However, what opinions of mine have been incorporated by the Government? We hope that the Board

will consist of members from the Mainland, Hong Kong and the international I used the term "international" originally, but the Government now uses the term "any other place". I have no comment about this, for it has accepted our opinions in this respect. At the same time, the Government has adopted certain wordings used by other Members. However, the Government only incorporates them in a piecemeal manner. As a result, we still have to propose our amendments.

We drafted this amendment together with professionals from a number of sectors, namely, the cultural sector, the legal sector and the planning sector. I must stress that a substantial part of my amendment is copied from the arrangement adopted by the Hong Kong Arts Development Council (HKADC) in electing representatives to its Board of Governors by various sectors. I even use the same wordings in my amendment, for I wish to model my amendment on existing practices. But, regrettably, despite the mildness of my amendment, the Government has only accepted the phrase "the Mainland of China, Hong Kong and any other place" in my amendment, but not the remaining part modelled on the sector-distribution approach adopted by the HKADC, which is indeed a very mild amendment. What is that part about? I mention in that part the representativeness of the following sectors, namely, culture management, education, planning, creation, interpretation, critics and donation, and hope that representatives from these sectors will be included on the Board. We have indeed spent a lot of time examining whether the term "donation" (捐助) or "sponsorship" (贊助) for arts and culture should be used. Since we do not want to see the project being controlled by real estate developers or certain people, we finally decided to use the term "donation".

In the United States, sponsorship is very common, and many foundations will offer sponsorship. However, we worry that this culture has not yet been fostered in the society of Hong Kong as a whole, particularly in the business sector, and we dare not use the term "sponsorship" hastily. Subsequently, the term "donation" is used.

I say this for I want to communicate with the Secretary. At present, one of the arts and cultural organizations under the Government is trying to include representatives elected by the sectors concerned in the Board. I would like to make this existing practice applicable to the WKCDA. But this proposal was rejected because the composition was not yet properly done. Chairman, the

composition of the Legislative Council is not yet properly done, too. There is still much controversy about these 60 seats, am I right? I am sure that even by the year 2020, there will still be considerable controversy. Will everything remain unchanged? No, there will be changes. The proposal put forth in 2005 was negated by the Legislative Council, for it was not yet properly done, and thus the disputes will go on. There will be further disputes in the next term. Who dare to say whether or not it is properly done? I think the development of every incident will have to follow the aspirations of the civil society and that the views of the public should be heeded. Why did Government say that the mode adopted by the HKADC for such a long time was improper?

MA Fung-kwok and another member of the Board of Governors — I have forgotten his name — CHAN Ching-kiu, had repeatedly made the point that we might give it a try. In our amendment, I emphasize that arts and culture should be the focus. I do so because the Government has put forth an amendment upon hearing the views of colleagues of this legislature. What has the Government added to the amendment? It has introduced new clauses related to the architecture, accounting, finance, planning, engineering and management sectors. The Government has incorporated some of the opinions, but only on the arrangement for the cultural sector of the HKADC, the Government said that it was not yet ready. Apart from saying that the arrangement of the HKADC was not yet ready, the Government considered that a cultural sector was yet to be found in Hong Kong now. I think this is a new issue. But with the HKADC trying out the arrangement first and then followed by the WKCDA, the relevant sector will naturally take shape. I have paid heed to many views. Some community organizations said at the first instance that other issues were negligible, for it was most important that the appointment was made by the Chief Executive. However, some people disagreed with it and required this and that be implemented. I have thus included these two, three or four streams of views in my amendment. Chairman, let me cite the views expressed by a successful organizer of a drama troupe as an example. When I heard his view, I immediately approached him for further discussion. We also wanted to identify an approach practicable in Hong Kong, so that the trade or respective sectors might join the Board through election. Why should the Board consist of representatives of respective sectors? Chairman, why do we attach great importance to this issue? For this involves how the voice of the public is represented on the WKCDA in future, which is crucial to the success of the WKCD project.

Chairman, in the past decade or two, cultural policies have become more and more important. Particularly at this time when information and cultural exchanges worldwide are increasing rapidly, this will easily lead to the homogenization of different cities. We are anxious about the phenomena of "a thousand cities sharing the same outlook", which means all modern cities will look the same. We do not want to see that. This reminds me of one thing. In the past, there were no shopping malls. But then, suddenly, the construction of shopping malls on podiums became a trend. Real estate developers were the one who benefited. Today, we sense that there is something wrong about this and want to return to street culture. We want something like Hollywood where people can hang around, or as a Cantonese slang goes "hea". I worry that the WKCD will end up as an imitation. We hope that Hong Kong will not imitate other cities. In Japan, there is Roppongi, where new and old elements are blended in within an old village. This is the conversion of Roppongi. In the capital of Korea, a unique characteristic is introduced into Cheonggyecheon with a view to creating a specialty for the city. People come to us to express a diversity of views and all kinds of concepts, hoping Hong Kong will take on a unique character. Particularly the members on the team of museum services, they do have some expectations. They hold that the success, or failure, of the WKCD project in the future is determined by the leadership of the leader. But will this highbrow leader appeal to the general public, or will this leader create a specialty for Hong Kong?

Honourable Members, since there is no arts and cultural policy in Hong Kong at present, cultural and recreational issues are mixed together. More often than not, our cultural needs are denied because of recreational demands. I heard an incident recently. Someone wanted to stage a concert in memory of a famous music player on the 15th anniversary of his death. An application for staging the concert on a beach was submitted, but it was turned down by the Leisure and Cultural Services Department (LCSD). This is only hearsay. Every year, the Cattle Depot Artist Village will stage an exhibition. However, during the exhibition, many incidents related to installation art pieces Since the management staff do not understand the nature of the exhibits, they do not allow visitors to touch the art pieces for security reasons. They are "rubbish". I am not scolding the security staff but the entire It ends up like this for they after all come from the LCSD and know nothing about these art pieces, we can not blame them. Security is their primary concern and they thus do not allow visitors to touch the exhibits. But this is a wrong approach. Since these

exhibits are installation art pieces, visitors should be allowed to feel and touch them.

As I said yesterday, a few years ago, we received a lot of cases about young people dancing in the streets. These young people were not allowed to dance. But why? Again, it was because the security guards did not allow them to do so. Therefore, WONG Kwok-hing, you must really say something about it. Since you have been in the former Municipal Council for such a long time, you must have heard many incidents of this type. We all notice that, in the absence of arts and cultural policies, arts and cultural matters are left in the hands of staff responsible for recreational matters In future, the WKCD will be managed by this queer group. We earnestly hope that For instance, I, CHAN Yuen-han, am fond of the Hollywood style. I love the milieu and atmosphere in Gough Street, for I feel like being in towns in Britain and France when I am there. I think it is exciting. Every place has its unique culture to attract tourists, where they will appreciate it and have fun. The road along which Van Gogh had walked is one of the examples. When you visit France, you will see many exciting things. We want these things. But can we rely on these people who only take orders to bring in these things?

I have thus drawn up my planning on arts and culture. When I worked on my planning, I heeded the views of the respective sectors. What have I incorporated? What amendments have I included? These are arts or culture management, arts or culture education, arts or culture planning, arts or culture creation, arts or culture interpretation, arts or culture critics and arts or culture donation. We wish to As the Government has altered the wordings, those "grandiose" wordings are really A group of young artists said to me, "Miss CHAN, how can we people focusing on creativity join the Board?" In view of this, we tried to work on the wordings. After that, an artist came to me and said, "Miss CHAN, we have helped the SAR Government greatly today." Secretary, you also know these people and they respect you. All of us want the WKCD to be better, so that this group of people may still find their way in the absence of arts and cultural policies. Though you have incorporated some of my views, you left out the crucial part. On the contrary, you included sectors on management, engineering, planning, architecture, accounting, finance and surveying, and so on I have no objection to the inclusion of these sectors, but why is the arts and cultural sector not included? Is arts and culture a scourge? Who are these people in the field of arts and culture? One as radical as LAU Chin-shek has only given moderate comments on the need of Cantonese

opera. What makes you so frightened? I have been pondering on this but failed to come up with an answer. So, what should I say? At this point, I think the success, or failure, of the WKCD hinges entirely on the composition of the Board. This is a point I have been emphasizing right from the beginning of the scrutiny of the Bill. I oppose exercising control through the centralization of power. I oppose allowing power-hungry people to manipulate the entire WKCD project. I vehemently oppose allowing these people to manage a project on which we have pinned high hopes and invested heavily. I think it is undesirable.

Chairman, culture is the essence of a city. The Government should change the direction of the overall cultural policy. I hope that the Government will extensively take on board the views expressed by various sectors on the WKCD project. I hope the Government will give us what we want, but not what it wants. Regarding the aspirations of members working in the field of arts and culture, I wish the Government would not I hope that the Government will make use of this entire project to set off a series of good development for Hong Kong.

Chairman, at this point of my speech In fact, I said yesterday that I would make some remarks today in this part of my speech. We support the development in West Kowloon, and we support the WKCD. But after all, it involves a harbour front site of 40 hectares, a tremendous amount of investment and the accumulated wisdom of many members of the community. Hence, we hope that the project will give impetus to Hong Kong, a city where East meets West, as a whole, enhancing the attractiveness and competitiveness of this place Southern China, lifting the standard of living of the people here, and providing them with more employment opportunities. We have expectations. However, as I said earlier, concerning the composition of the Board of the WKCD, I have told the Government repeatedly that I must praise those officials, for they have really been working hard, exchanging emails with us even on Saturdays and Sundays. I think it is OK. She once said I cannot hear what Margaret said.

MS MARGARET NG (in Cantonese): She has been transferred.

MISS CHAN YUEN-HAN (in Cantonese): Transferred? That means She is really hardworking, and we

CHAIRMAN (in Cantonese): Ms Margaret NG, Honourable Members, when a Member is speaking, other Members should not interrupt.

MISS CHAN YUEN-HAN (in Cantonese): Yes, Chairman, I know.

CHAIRMAN (in Cantonese): Please continue.

MISS CHAN YUEN-HAN (in Cantonese): I agree that he has been prepared to listen to our views, but I think he has failed to catch the gist of our views. I strongly stress that if the appointments are made by the Chief Executive We still have to be bound by this arrangement for the time being. Therefore, when Alan LEONG proposed his initial amendment, we said that it was undesirable. For if all three members of the selection committee are appointed by the Chief Executive, it means the Chief Executive will have the final say. We know that it is a difficult situation. But can it be changed after three years? We are willing to give it a try. Hence, I hope the SAR Government will take the opportunity arising from the WKCD project to bring some changes to the entire management culture of the Government.

Another issue is how will the Government endeavour to promote the development of other districts in the course? As I mentioned earlier, Stanley is one of the examples. Tai Hom Village, once home to film productions, is another example. We together with the film industry will, with regard to the 1950s, 1960s (*The buzzer sounded*) Thank you, Chairman.

MR SIN CHUNG-KAI (in Cantonese): Chairman, Mr James TO has presented the amendment to clause 6 on behalf of the Democratic Party earlier, I will focus on my amendment.

Regarding the amendment to clause 6(3), I would like to draw a comparison between the present amendment of the Secretary and that of mine. The Secretary's amendment to clause 6(3) is on the appointment of Board

members. The Secretary's amendment states that: "not less than 8 and not more than 15 other members who are not public officers, including: (i) at least 5 members who, in the opinion of the Chief Executive: (A) are of good standing in the field of arts and culture in the Mainland of China, Hong Kong or any other place; or (B) have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities; (ii) at least one member who is a member of the Legislative Council". My amendment is different from the Secretary's amendment on this phrase. My amendment states that "2 persons elected by the Members of the Legislative Council from among their own number". I propose that the members concerned should be elected by Members of the Legislative Council, but the Government says here that they should be appointed by the Government.

With regard to item (iii) in the Secretary's amendment, it requires that the members appointed should, in the opinion of the Chief Executive, "possess experience in management, engineering, planning, architecture, landscape architecture, surveying, accounting, finance, education", and so on. We have no objection to this amendment, but only request that "information technology" be included as one of the professions. In respect of professional sectors, I think it can choose not to mention any of them, but if it wants to list them, it should not leave out individual professions.

I so submit.

MS MARGARET NG (in Cantonese): Chairman, my apologies, first of all. Just now, I was drawn to Miss CHAN Yuen-han's speech, could not help making that remark. I should not have done so. I will save such remarks until it is my turn to speak in future.

I made such a remark for certain reasons. When we debated the Phase III Study Report of the Subcommittee on West Kowloon Cultural District Development submitted by Mr Alan LEONG in his capacity as Chairman of the Subcommittee, special tribute was paid to Ms Esther LEUNG, the Deputy Secretary for Home Affairs. She has enormous knowledge. Throughout the entire process, she has maintained a joyful co-operative relationship with Members and let us see the best transition arrangement, which wholly depends on the assistance of an official with deep knowledge in the field. However, this situation is only short-lived and may not be maintained in the long run. This is why, Chairman, systems are always more important than people.

Chairman, the remarks by Mr Alan LEONG are very gentle and tactful, but I will be relatively candid. First, we should pay attention to clause 6. How did we negotiate with the Government? As Mr Alan LEONG said, we attach great importance to the appointment system, including its principles and the process. We thus proposed to use the principles and processes set out in Part 5 of the Schedule, which means the selection committee will first be appointed by the Chief Executive and the selection committee will carry out selection and make recommendation on Board members. The selection committee should act in accordance with the principles and processes set out in Part 5 of the Schedule. We consider that this arrangement can avoid personalizing the process, so that everything will be subject to the regulation of principles and open accountability.

When we proposed to set up the selection committee initially, government officials said that it would be difficult to do so, for such a system was not available then and it would be difficult to create a new system within the short period at the amendment stage of the Bill. We also agreed with that opinion. Since that was a new mechanism, it was inappropriate to add a new mechanism during the amendment stage of the Bill. So, we did not insist. Though the Government has turned down the proposal to set up a selection committee, we consider that principles and open and accountable processes are vital, we thus propose the addition of Part 5 to set out the principles in the Schedule. If the Chief Executive follows these principles and procedures in making appointments, we think the objective concerned can already be accomplished and it is thus unnecessary to include an additional mechanism. But the Government also rejects this proposal. This shows the tenet of the issue. What is it? In the appointment of the Board members of the WKCD, the Chief Executive refuses to be subject to the regulation of any principle or open and accountable process. His intention is conspicuous under this circumstance. We can all see that the Chief Executive is not willing to subject to regulation.

Actually, the Chief Executive's line of thought is easy to understand. This can be explained by an ancient Chinese term *Quanbing* "權柄" (Mace — an ornamental baton). What does it mean? When one holds this ornamental baton, one is indeed holding a mace. With this mace in hand, he can wield his power to influence the world. What does this mace represent? It is the power of appointment and dismissal. He wants to hold this power of appointment and dismissal without bounds all by himself. This is exactly the defect we want to

rectify. Not until this defect is rectified, the same problem will recur on the appointment of Political Assistants, Directors of Bureau and Under Secretaries, as well as members, Board or Chief Executive Officers of any statutory organization. Therefore, the amendment we propose today is of the utmost importance.

Chairman, let us look at the issue from a different perspective. Even though the Government is correct, it is not the only one in this world who is correct. Our proposal is quite good too, so not only the Government's proposal should be regarded as the best. We may perhaps look at the amendment proposed by the Administration objectively and see whether it is indeed very good. It said that in addition to good knowledge in arts and culture, the member should also have a good standing. We then included the criterion of a good standing. It said that the members should possess experience in engineering and planning, and even landscape architecture. We followed it and included them one by one. What else does it want? Is it going over board?

Chairman, let us look at the amendment proposed by the Government carefully. In the phrase "at least 5 members who, in the opinion of the Chief Executive", a few words, "in the opinion of the Chief Executive", are the most crucial. Actually, the remaining words in that phrase are insignificant. For only if he considers it is suitable, it is; when he considers that it is "right", it will not necessarily be wrong at all. Let me cite an example. If I appoint Mr Rafael HUI, whom you are all familiar with, will you dare say that he has no knowledge in arts and culture? He has an extensive private collection, can you say that he does not have a good standing? Definitely not. Does he not have extensive knowledge? So, it is not a matter of what he is like, but what the Chief Executive thinks about him. What problem will it cause? It is possible that the Board will become a private club of the Chief Executive. He will appoint anyone he considers have knowledge and standing in the field of arts and culture, and he will manipulate the many important powers conferred by the Bill. A scenario we do not want to see.

Before the reunification, the former Executive Council of the colonial government had been open to criticism for being like a private club. The Bill today has also given the Chief Executive enormous power to set up his private club. Let us look at it from a different perspective. Why is the amendment now proposed by Mr Alan LEONG better? Indeed, we need not care about the accomplishment or standing of the candidates in arts and culture, for the normal process included there has provided for considerable flexibility. While

fulfilling the need for flexibility, the open accountability and transparency of the appointments will not be compromised, and the appointments should at the same time be subject to the regulation of objective principles.

Chairman, we fully understand that the WKCD is a long-term project and that different talents are required at different stages. For instance, at the construction stage, more talents in the field of cultural facilities construction, such as landscape architects, architects and planners, are needed, and even talents in the business field may be required, for they are good at financial management. Therefore, there are different needs at different stages. But it does not matter. We only need to state clearly the objective requirements of the vacancy at each stage. As Mr Alan LEONG said earlier, we have to announce the particulars and requirements of the vacancy, and explain why those people are needed at a certain stage. After that, an extensive recruitment exercise can be launched. Miss CHAN Yuen-han's fear that people with creativity will not be able to join the Board will no longer be valid. When it is known that certain people are very important to a certain stage, the people concerned may apply for the vacancies, even though the WKCD has no knowledge of their existence before that, and the need in this respect can thus be satisfied.

We do not need to worry about queries that the persons appointed are unknown or too young, and that their previous positions and salaries are not high. For when we are asked why they are appointed, we may simply answer that the candidate satisfies the objective criteria publicized. Moreover, fair and open competition is included in the selection process, and whether a certain candidate satisfies all the requirements is put on record.

Chairman, no matter it is for the reason of the inadequacies of the present Bill, or the merits of Mr Alan LEONG's amendment, the Bill should be amended according to the amendment proposed by Mr Alan LEONG.

Chairman, this session of debate held today is indeed very important, for it will have a bearing on the appointment process of the entire SAR Government or any other public office.

Thank you, Chairman.

MR WONG KWOK-HING (in Cantonese): Chairman, I speak in support of the amendment proposed by Miss CHAN Yuen-han.

At the last debate, I said that the administration should absorb politics to establish consensus politics. Actually, the concept can be fully applied to this amendment, but I am afraid it will be too tiresome to repeat those arguments here. Having said that, I have to reiterate one point, that is, I hope that in considering the candidates for appointment, the Government will reconsider my proposal.

Concerning the amendment by Miss CHAN Yuen-han, as Miss CHAN said earlier, part but not all of her amendment has been accepted by the Government, while the part not accepted is rather significant. Comparing the amendments proposed by the Government and that by Miss CHAN Yuen-han, I notice that new provisions have been added by the Government to specify that Board members will include some talents who in the opinion of the Chief Executive possess experience in management, engineering, planning, accounting, finance, surveying, education, law and social service. Honestly, Chairman, it is evident that the framework of the future West Kowloon Cultural District Authority (WKCD) will be inclined to adopting a corporate or business mode of operation, lacking arts and culture elements and considerations.

Such a composition, if found at the initial stage, is not uncommon. As the Bureau concerned told us earlier, since the WKCD project is now at the construction stage, it should thus involve more persons in the management, engineering, planning and architecture fields. However, we are now talking about the long-term operation of the entire WKCD in future, how can it remain at the initial preparation stage for construction? The part of Miss CHAN's amendment, which has not been accepted by the Government, can exactly make up for the inadequacy in this respect. The amendment also proposes the inclusion of persons possessing the following experience as Board members: management, education or planning, creation, interpretation, critics and donation in the field of arts and culture. Actually, these provisions have rightly reflected the aspiration of the cultural sector and arts sector. But, regrettably, the Government has not accepted these provisions. It is a real regret.

I think this may perhaps be attributable to the administrative framework in Hong Kong. Under the existing administrative framework, arts and cultural

matters are put under the purview of the Leisure and Cultural Services Department (LCSD), while the LCSD is under the Home Affairs Bureau. The name of the Bureau is self-explanatory, it is responsible for home affairs, how much elements of arts and culture will be included? I am afraid it will be sorely lacking, let alone having a complete and comprehensive cultural policy or vision on arts development. Hence, it is a structural problem. Owing to this structural deficiency, the authorities will only think about identifying candidates for appointment from the management, engineering, planning, architectural and accounting fields. As I said earlier, it only attaches importance to corporate management, but the arts and cultural elements are minimal.

Chairman, I would like to cite another example. A few days ago, when I was reading the newspaper, I noticed a large advertisement on the 7th Hong Kong Literature Festival (the Festival). I was so happy to see that advertisement, for the Festival was proposed by me during my service in the former Municipal Council and it was organized afterwards. The Government has honoured its promise to continue staging the activity. The Festival has not been ceased because of the dissolution of the two former Municipal Councils. The Festival has entered its seventh anniversary this year, and that is why I felt so happy when I saw that advertisement.

However, I have strong feelings about this. Why do I have to cite this example? It is because the Festival is now organized and planned by the LCSD. I read every word in the advertisement. But I could not find any platform for individuals and organizations in the literature field in Hong Kong to have interaction and exchanges, and bring their expertise into full play. In respect of the design, scale, scope and coverage of the activity, a top-down and official-led approach was adopted. The activity was held at the Central Library. There was no thinking out of the box in this.

What is the point I want to illustrate with this example? That is, despite adopting the executive-led approach, how can consensus politics and the inclusion of talents from all fields be achieved at the same time? How can we pool the wisdom of the community and bring it into full play? It is most inadequate in this respect. I cited the latest 7th Hong Kong Literature Festival as an example not because I disrespect and intend to criticize the organizer of the Festival. Conversely, they should be praised for their perseverance. I only want to point out the inadequacy involved. The LCSD should not be blamed for this inadequacy. It only reveals to us that the Government does not have such

concept, nor does it have a direction. Therefore, activities promoted by the Government are subject to many constraints, and it lacks foresight and fails to muster enthusiasm and creativity from the community.

Chairman, I have cited this example to illustrate that Miss CHAN Yuen-han's amendment is worthy of support. The amendment can precisely rectify the problem of lack of thought on the part of the Government. It states clearly that the authorities should identify individuals possessing experience and knowledge in the management, education, planning, creation, interpretation and critics, as well as donation, that is, resources, in the field of arts and culture, so that positive elements in the field of arts and culture in the community can be gathered. This is exactly the part missing in the thinking of the Government,

Chairman, according to my observation, it is highly likely that Miss CHAN Yuen-han's amendment will fail to get enough votes for passage. I think it will probably develop in this way. However, I very much wish to take this opportunity to urge the policymaker to accept the idea and spirit proposed by Miss CHAN Yuen-han in her amendment, even if the amendment by Miss CHAN Yuen-han is not passed. I hope that in enhancing the appointment of members of the WKCDA, or in considering appointments to the WKCDA, the Government will incorporate these elements. The Government should consider the merits of this proposal and rectify the inadequacies of its original proposal, so that the WKCDA will be worthy of its name in bringing about cultural development and a cultural perspective with foresight for the people of Hong Kong.

Thank you, Chairman.

DR KWOK KA-KI (in Cantonese): After studying the amendments proposed by a number of colleagues at this stage carefully, I think the amendments are quite reasonable and moderate. I have listened attentively to the speech of the Secretary, but it makes me sad. Today, the Secretary is an important member of the establishment. However, before joining the Government or the Central Policy Unit, particularly during the colonial era, the Secretary was outside the establishment, or say, an outsider. So, I believe that now being in the establishment, he should have some deep feelings.

Concerning the WKCD, if the Government and the Secretary can take one step back and look at the issue from their experience, I believe his final opinion and decision will not be the same. However, it is most disappointing that after listening attentively to the Secretary's speech, Chairman, I sense that he is saying those changes, including those proposed by Mr Alan LEONG and Miss CHAN Yuen-han, have touched on the appointment principles the Government considers most important. The underlying meaning is that these principles cannot be changed. In other words, even if these are terribly wrong, even if the existing appointment system is good-for-nothing, it has to be maintained. I do not know why the Government has to be so obstinate all the time, Madam Chairman.

Recently, there was the incident of Under Secretaries and Political Assistants, as well as a series of problems related to public bodies and statutory organizations. I do not want to repeat those issues, for whenever I mention those organizations, particularly the Hong Kong Tourism Board, some Members will look at me. There are many examples, but I do not want to repeat them. Yet, the fact is the Government has not learnt a lesson at all. It still holds on to that non-transparent, or almost non-transparent, system. Even though it gives the public an impression that their views will not be valued in the planning, the Government insists that the system be maintained. I heard the Secretary say earlier that it is difficult to identify suitable candidates in the absence of a qualification framework in the field. What should be done? I am just checking if Mr Timothy FOK is in the Chamber. He is elected to this Council by the cultural sector. If the Secretary's argument is tenable, how can he be elected? Now, we ask the Government to consider one point, that is, there are different circles in the culture sector. If it is said that no circle can be found in the sector, where do the electors come from? He said it was not feasible because there was no qualification framework. This has been a usual practice of the Government. When it wants something, it will tell this side of the story, but when it does not want that, it will tell the other side of the story, trying to irrationalize all matters which are indeed rational.

Madam Chairman, we may again look at the arts group structure of the Hong Kong Arts Development Council (HKADC), which includes arts groups on Arts Administration, Arts Criticism, Arts Education, Dance, Drama, Film and Media Arts, Literary Arts, Music, Visual Arts and Xiqu. Everything is crystal clear, and the source of each arts group is very clear. The existence of different domains of arts is apparent. But the Government still denies their

existence. What kind of reasoning is this? Madam Chairman, when the same yardstick can be used for the HKADC and the functional constituency concerned, that yardstick should also be applicable to the WKCDA, though we have been denouncing the election of the functional constituency. But the Government dares turn a blind eye to it. Members have mentioned the phenomenon of inbreeding. I think it is quite interesting. But, after all, it is an apt analogy.

Why are we so anxious about this? Madam Chairman, the WKCD project is important in two aspects. First, it involves an enormous amount of investment, amounting to \$21.6 billion, and real estate valued at tens of billions of dollars. Second, everyone, be he or she in the arts and cultural sector or not, thinks that since they cannot change the Government's high-handed approach, they could only try to achieve a better a composition of the WKCDA. As such, they make every effort for a better outcome. We hold high expectations for every member appointed to the Board. Though the Government keeps mentioning the accountability system, it has not been accountable to the public. Only when genuine democracy is implemented in Hong Kong will the Government be qualified to mention the political accountability system to us. But we do not know when this day will come, for I basically have no confidence in the 2017 and 2020 proposal. Nevertheless, the WKCD is only an issue at a low level, which will not affect the governance of the Government. Even though we only want to do a better job in a pragmatic manner, the Government is so narrow-minded that it refuses to heed any of the opinions.

What can the people appointed by the Government achieve? Will they threaten the interest of the Government? We hope that, eventually, all members will be returned to the Board through a highly transparent and accountable system. Basically, if I am asked: How should members of the WKCDA be selected? I would say: I hope that representatives selected by the public can join the Board. But definitely, this is impossible. First, the Government is not elected by the people, and second, a mechanism is hardly available. For this reason, we back off and look for a second-best option, setting up a mechanism that can manifest the spirit of accountability. For instance, we have proposed that the members should be elected from among Members of the Legislative Council. Actually, there is a deep meaning for this approach. On the one hand, the Government may pick some docile colleagues who are close to the Government among the 60 of us. It may continue adopting its affinity differentiation approach, while the highest guiding principle is to find some close and docile Members. On the other hand, the same approach for selecting the

delegation visiting Sichuan can be adopted. Madam Chairman, the arrangement for this visit has reflected the activeness of the Legislative Council. In selecting Members to participate in certain activities, some Members elect the representatives from among themselves, or use a relatively transparent and reasonable approach to recommend other Members as representatives. But the most important point is that the elected Members are still accountable to the Legislative Council. If they do not attend meetings, failing to fulfill their duties and responsibilities of a member, they will be admonished by us in this Council. Nevertheless, the Government cannot accept such a small alteration.

Second, actually, clear election and selection methods have been adopted by the Hong Kong Arts Centre, the HKADC and many different organizations to ensure that voices of representatives from the arts and culture field will be included in the administrative framework, manifesting the spirit of accountability further. It is most imperative that these elected persons have the responsibility to express the opinions of the public and those concerned about the field of arts and culture to the management. This will not affect the future WKCD in any I do not see any negative impact of this approach. The Government definitely does not perceive the issue from this perspective. In the view of the Government, "the power should be in its hands". It considers this a desirable means to make political rewards. To put it coarsely, the WKCD involves interests amounting to tens of billions of dollars, infinite real estate interests and commercial interests, which have to be dished out to different groups with vested interests. These are issues of the gravest concern to us.

If the Government condones a mechanism embedded with conflicts of interest, carrying no accountability and operating in a black box, it is actually introducing some undesirable phenomenon. Had the appointment system adopted by the Government over the years been effective, we would not have seen the different kinds of blunders of governance that led us to gasp with astonishment and ache in our hearts. Despite the problems arising from the Hong Kong Applied Science and Technology Research Institute, the Hong Kong Productivity Council and the Equal Opportunity Commission, the Government has not learnt any lesson. It remains its old self, refusing to heed any opinion. How can it give us confidence? How can it let the public feel that their opinions will be accepted? In this connection, the WKCD project has indeed provided a golden opportunity for the Government to right its wrong. If the Government is serious in realizing the spirit of accountability, if it intends to include the public opinions in a project closely related to the public and the arts and cultural sector

via a direct and effective channel, this is the best opportunity. However, not only has the Government failed to seize the opportunity, it has indeed wasted it and found all kinds of excuse to evade it. As a result, Members from all political parties and groupings have to propose amendments. Actually, the objective and direction of the amendments proposed by these Members are cognate. Accountability, transparency and participation of the public are core values we should protect, are they not? When the Government keeps saying it adopts "people-based governance", realizes the spirit of democracy and implements democratic systems, are these not something it should do? Why does the Government again fail to practise what it preaches? Why has it to continue defending these non-transparent systems open to criticism?

Honestly, regarding the Nolan Principles mentioned by Mr Alan LEONG, I think he has been too polite. We are only discussing with the Government the principles It may perfunctorily say that it has already discussed those principles but still decided to select those persons, for these persons These are only trivial issues, but still, it cannot accommodate them. It shows how narrow-minded the Government is.

However, today, Madam Chairman, the Government is not trying to facilitate the development of this cultural district or the WKCD, it is trying to place the project in a situation we do not want to see, the same situation faced by certain statutory organizations over the years which has caused a lot problems. I used to serve in some statutory organizations and I have deep feelings about this. The thinking of the Government is very simple. Both the Government and the Chairman the Government preferred do not want to hear so much noise. No matter what proposal the Government puts forth, it earnestly hopes that the proposal will be greeted with triple cheers by all members, saying, "This is the best policy, there is nothing better than this". Madam Chairman, in future, no matter what the Secretary for Home Affairs puts forth to the WKCD, he does not have to worry, for all those selected by the Government will definitely acclaim repeatedly that: "Secretary, you are so wise, you are fabulous. All your cultural policies, irregardless of which Bureau by the policies are proposed, will turn over a new page for the cultural district in Hong Kong." These are the voices he wants to hear. He will hear this every day in the future, for those selected by him will surely do that, and he is eager to select them.

What good will this approach do? Actually, what can representatives returned by election do, including the representative elected from among

Members of the Legislative Council? Where can they go? All persons elected to the Board are monitored by the public every day. They have to be accountable to the public every day. The public will observe all the speeches of, attendance record of and discussions held by these people, and they will get even with these people. This approach will indeed help the Government and the future WKCDA, for a good administrative framework will prevent the Government from making mistakes, more blunders and scandals. This will indeed help the Government.

Honestly, these people who are elected have to work hard. Members also have to work hard in different organizations and we often have to make unwelcome remarks. Yesterday, I heard Mr LEE Wing-tat tell a story about the Housing Authority. I understand that he was indeed helping the Government. However, it is peculiar that the Government does not like that. The Government is still fond of holding all the power, continuing with this monarchical or Middle Ages rule. Given that, how can Hong Kong become an advanced cosmopolitan city in Asia? Frankly, it is really impossible.

But no matter how, as many Members said, the amendments proposed by the Government will be retained by its high-handed policy under the distorted system of the Legislative Council. Madam Chairman, neither the Government nor the officials in this Chamber will lose anything, only all the people of Hong Kong and those who are genuinely concerned about the development in arts and culture in Hong Kong will suffer.

With these remarks, I support all the amendments. Thank you, Madam Chairman.

MISS CHOY SO-YUK (in Cantonese): Chairman, last night, we discussed whether a competition should be held to decide the planning criteria. Our views were unanimous. The criteria and views mentioned by colleagues were very good and the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) very much agreed with them. However, if these criteria were to be specified in the legislation, it would be another story. Today, we are discussing the amendments proposed by colleagues to clause 6. For instance, Mr Alan LEONG proposes that future Board members must have commitment, feeling and passion, and should be selected according to the Nolan Principles. We strongly support these and consider these very good suggestions. He even

proposes that extensive representativeness of members should be achieved by all means in future, and if the circumstances permit, members should be selected through election. We think these are good opinions, which should be encouraged and warrant more efforts.

Some colleagues criticized the Government for failing to learn a lesson and remaining its old self, but I believe the Government will not act this way, neither do I wish to see the Government being its old self. However, the question is that the inclusion of these requirements in the legislation is another story. I hope the Government, after hearing so many views, will incorporate these views into the future code of practice or guidelines. We will fully support it. With regard to the inclusion of these requirements in the legislation, we surely hope that the legislation will be comprehensive. However, if we are to draft certain criteria, and even try to include the criteria of various sectors, will certain sectors be left out? Certainly, as explained by the Government, there is a need to appoint different persons at different stages. If so, should we specify in the legislation that at a certain stage, certain representatives are required from a certain date to another date while other representatives are required during another period? Is it possible to do so? This is a point Members should consider.

With regard to election, as far as I know and according to the views I have heard from various sectors, they have queries about which types of organizations or art performers can be representatives. Take the Hong Kong Arts Development Council (HKADC) as an example. Could ballet performers become representatives? Could sopranos or tenors become representatives? So, given the various kinds of arts performers, there is the problem of which types of arts performers must have representatives on the Board. I believe these issues will definitely arouse great controversy in society. Our argument on the functional constituencies of the Legislative Council alone has gone on for numerous decades. Therefore, with regard to which types of arts performers must have representatives on the Board, I think Members may probably ask the arts and cultural sector, but I wonder how long the controversy will last before there can be an outcome.

Moreover, the WKCD does not fall within the purview of the HKADC. Miss CHAN Yuen-han mentioned the HKADC earlier, but I believe, relatively speaking, the problems faced by the HKADC are easier to solve, for they only involve the existing scope of work of the HKADC. However, the WKCD

involves museums as well as cultural development. If in future, the Government or the public, and even all the sectors concerned, unanimously consider that members should be selected by election and that objective criteria should be adopted in election in order to ensure the representativeness of members, I think the controversy so aroused may last for a decade or two. This is the reason for the DAB opposing including these principles in the legislation at this point. We oppose including these principles in the legislation, but not the principles themselves.

Besides, if these principles are included in the legislation, there will be a chance of sparking a lot of legal disputes. For instance: What is the definition of representativeness? Why can certain people be representatives but not the others? Will someone initiate judicial review? This will lead to a series of problems in future. It is inappropriate of us to stand up here today to say that these principles are good and should thus be included in the legislation, and consider it the right move. These are our main considerations. There are many good proposals and views. We hope that the Government will accept these views when it appoints or selects Board members in future. However, we do not support including these views in the legislation as mandatory requirements.

Thank you, Chairman.

MS EMILY LAU (in Cantonese): Chairman, as some colleagues said, the appointment of the Board is the climax of the play. Miss CHAN Yuen-han was right in saying that the success of the WKCD hinges on the composition of the Board. As such, we are very much concerned about the selection of Board members and to whom the Board should be accountable. However, in view of the usual practice of the Administration, I believe no one will pin any hopes on this, for what we see are only more acts of affinity differentiation and cronyism. This is the practice of the incumbent Chief Executive and the former Chief Executive.

The amendments proposed this time aim to change the state of affairs. However, Chairman, those amendments which the Administration considers acceptable and supported by this Council have all been included as the Secretary's amendments. As for amendments proposed by other Members, I believe there is very little chance that they will be passed. If the Bill is passed

without any amendment or with the amendments proposed by the Secretary, I believe the composition of the Board will not give us much confidence.

Miss CHOY So-yuk said earlier that they supported all those criteria. Is this not empty talk? Despite stating her support for those criteria, she said it was another story to write them into the law. Why did she say she supported those criteria then? It is really puzzling. Did the support only mean for a laugh? If she supports those criteria, she should take action. If those criteria are not written into the law, how will the public be convinced? How can it make the public believe that those criteria, which are being supported, will be implemented?

Therefore, sometimes, Chairman, the pro-government party does need some drills. They should drill themselves to be more articulated, so that they can fight the battle of words in the legislature. The Secretary refused to speak. He spoke once, but after that, he remained silent when he was asked if he would like to speak again. But, when he spoke, he made such remarks. If the public are watching the meeting, they will ask: "Why would this happen? Why would this group of people support him?". I think that some issues must be explained clearly. Since many people said so, she also expressed her support in her speech, but she would not vote for the amendments. In other words, all the arguments are valid. How ridiculous it is. On the contrary, had she not supported those amendments for she considered they were all incorrect and bad ideas that would ruin Hong Kong, I would have understood the logic. However, she does not think this way. She considers that all the proposals are good, only that she will not support them.

Actually, I did not hear clearly the other issue mentioned by her. It was also a ridiculous one. She mentioned the phrase "at different stages", Chairman. She said that different persons should be appointed at different stages, for at the early stage, the focus would be on planning, and so on, but at a later stage, the focus would be on other issues. Indeed, the Administration has already answered this point. Do you think a member will be appointed to the Board for life? He will only sit on the Board for a few years. So, it can just appoint those people at the first stage. Chairman, sometimes, there may be a lapse of concentration, perhaps because of the long hours of meeting. However, if the Administration — not the Administration, but those who support the Administration — has good reasons and chooses to remain silent. (Mrs

Selina CHOW is an exception, for she spoke on behalf of all the people here), I think it will be a queer debate.

However, Chairman, I think you probably hope that not so many of us will speak. Otherwise, the delegation to Sichuan may have to be postponed. Some Members have already asked what we should do if the debate lasts until tomorrow night. If we cannot go, we can only tell Donald TSANG so and ask him to postpone the visit to next month. The point is, there needs to be debates. Nevertheless, she just stood up and said that all the opinions were good, only that she could not support them. This is the first time I heard such remarks. Indeed, this is not the first time, but whenever I heard these She said that the proposals should be promoted but not be written into the legislation. I cannot agree that these proposals should be promoted but not be written into the legislation.

Mr LEE Wing-tat mentioned his experience, that is his experience related to Sir David Akers-Jones. However, Dr KWOK Ka-ki's experience is more unforgettable, and I understand why he would be so angry. Chairman, why? The Government appointed him and other Members of the Legislative Council to the Hospital Authority (HA). But unfortunately, his appointment only lasted for a short period. Why? For he often made unwelcome remarks. The case of Dr Fernando CHEUNG is even worse. He was not even appointed. In the past, the representative from his sector was made a member of the Welfare Advisory Committee, but now, he was not on the Committee. Members did ask the Secretary the reason for that? But there was no explanation, just because they did not like him. It may perhaps be attributable to his appearance or unwelcome remarks. Even if he is appointed, he will have to leave immediately when his term expires. This is the case. He should not have been so outspoken. Those who do not speak or are "dumb" may perhaps be given more duties.

These incidents did not only happen yesterday, these are real life examples and will be announced next week. As I said yesterday, Chairman, the announcement to be made tomorrow will not have so many viewers as our debate today. I believe there may be hundreds of televisions broadcasting the announcement. This is a replay of the incident of Under Secretaries and Political Assistants. The public has already experienced this, so the media also know that once the news is announced, it will cause a sensation. I think the Secretary should be fully prepared for this. Moreover, the Chief Executive

should also accompany the Secretary in making the announcement, instead of hiding away to avoid giving any remarks, just as he did in the incidents related to the Under Secretaries and the Political Assistants, when he was afraid of seeing anyone and hid for several weeks. I believe the announcement will drop a bombshell in society.

The bombshell can be positive. The announcement may draw a thunderous applause. It may give the public the impression that the Chief Executive has completely abandoned the affinity differentiation approach, for he has appointed all kinds of persons whom the public consider have the credibility and ability to manage this project of \$21.6 billion on behalf of Hong Kong. Chairman, what did the Secretary say just now? He said that the Board was neither a parliamentary assembly nor a political framework. The Secretary should go back and study again. What is politics? Politics is the business of the people. This issue is controversial, and there are remarks like "He who gets West Kowloon gets the whole world". If it is not politics, what is it? No one ever says that "he who gets the Legislative Council gets the whole world", but they say "He who gets West Kowloon gets the whole world"? Is it not politics? This project involves \$21.6 billion and interests in many other aspects. If this is not politics, what is it? When we study politics, this is the point we learn in the first lesson. Chairman, what is politics? Politics is about the distribution of resources and power. The project involves a site of 40 hectares and tens of billions of dollars. This is politics, is it not?

If so, why should people with accountability and representativeness not be selected to sit on the Board? These people who are selected to sit on the Board will have to be accountable to their supporters of the remarks they made on the Board. For instance, they should explain their views about the distribution of funds, the approval and disapproval of funds. Why do they not have to explain the case? Particularly when such proposals will be voted down in the open meetings held subsequently. If such is the case, there will be no transparency at all. Why can it not work?

Chairman, I sense that the Administration is unwilling to include in the Bill provisions introducing transparency and accountability, which will make the public be rest assured, knowing that the people selected will have pressure. But actually, they should have pressure, for they have to be accountable. However, the Administration mentioned the remarks I made yesterday, for the Administration has indeed presented similar views at the Bills Committee. It

said that if the people selected had to represent the interests of certain groups and be accountable to them, they would not be able to tie in with the objectives of the WKCD and unanimous objectives could not be achieved. Everyone has his or her own thinking, how can they have unanimous opinions? Should they give up their own opinions completely and just put up their hands to agree with views expressed in the Board? Should only this be regarded as unanimous? The Board can accommodate different opinions, but behind the Chairman, the most important point is that the opinions of the public can be brought into the Board. If the people selected only need to share the views of the Government, who turn a blind eye to some imminent problems, what is the meaning of achieving "unanimous opinion" of this kind? Therefore, Chairman, to those Members who have proposed amendments, I wish them good luck. But after listening to the "grand remarks" from Miss CHOY So-yuk, I believe Members know that those amendments will fall flat.

I have one more opinion to make, which is on the part related to the Legislative Council. Actually, the Administration has no strong views on including Members of the Legislative Council in the Board. However, the Government is unwilling to specify the number, and it only says that there will be at least one Member of the Legislative Council. The Government says it is not a problem if Members of the Legislative Council want to elect from among themselves a Board member, and it thinks it is acceptable. However, I will say, "How can you do that? Do you want to start a fight in the Legislative Council? But, Chairman, by next term, you may shut your eyes to these fights, for you will no longer be here in this Council. In future, the Administration will invoke the ordinance and say that one Member of the Legislative Council may be selected, which will perhaps be selected by the Chief Executive. But the Legislative Council says that it prefers the Board member concerned being elected from among themselves and that not only one Member but two or three Members of the Legislative Council should be elected. I wonder how this will be carried out in future. But actually, the easiest way is to let the Chief Executive appoint one Member of the Legislative Council as the Board member.

However, the Government should not pay lip-service and say that the possibility of the Legislative Council may do so cannot be ruled out. If it considers that the Board member concerned can be elected from among Members of the Legislative Council, I think it should be written down clearly. It should state clearly whether one or two Board members would be elected from among Members of the Legislative Council. It should then say, "You may have two

representatives." In that case, we can provide in the rules of the Legislative Council the method of electing those representatives. But given the present wordings, I believe, eventually, the Secretary — not the Secretary but the Chief Executive — will say, "You may be the Board member, for you know best how to protect the Government, and you must be the one." Who will bother electing the Board member then? If we are impervious to this and propose for the election of the Board member in the next term, it will spark off a dispute in the Legislative Council. By then, we will be criticized for bringing this Council into disrepute. Please tell me what is the point of doing so. At that time, someone will say the Administration said then that the Board member could be elected by Members. Given that, why should the Government enact an ordinance that will cause a lot of disputes in the Legislative Council in future?

Therefore, Chairman, I believe the composition of the Board will determine the success, or failure, of this project. However, the amendments proposed by the Administration, including those proposed by the Secretary, fail to inspire confidence in me and the public, convincing us that the composition of the Board can ensure accountability and transparency, as well as bringing the views of the public into the Board. It should refrain from requiring members to integrate with the Board and uphold unanimous objectives. What we need are diversity, creativity and representativeness, which cannot be achieved with this clause.

I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): The WKCD project is a tragi-comedy or a farce. In the course, some people did say that, "He who gets West Kowloon gets the whole world". Today, the Administration will soon get the WKCD, but no one knows who will get the whole world. However, I think that the Government is only willing to rectify its mistakes superficially. After the landmark project plan proposed during the TUNG Chee-hwa era was scrapped, it did promise the community that it would not follow the former practice. Now that the Government gets the WKCD, it loses face. For the legislative process involved fully reflects that the Government has failed to rectify its mistakes as promised.

What is the function of the Legislative Council? Since the Legislative Council in Hong Kong has no power to draw up the constitution and create

institutions, it has been dwarfed to performing only the legislative function. To formulate legislation means drawing up contracts. Am I right? The constitution is the principal contract, similar to the case of a contract with the landlord. The enactment of legislation can be likened to the formulation of subsidiary contracts and leases. If the legislation is unclear, it means the commitment will be small. If the meaning is ambiguous, there will be more room for a "play on words" and the shirking of responsibilities. Members of the Legislative Council are representatives of public opinions, while each of these different public opinions represents partial justice. When all the partial justice is put together, it is overall justice. The Legislative Council writes the overall justice on the soil and hope that the Government will sign it. However, the Government takes all these away. It suggests that the Government will make the proposal and let the Legislative Council confirm instead. What is the difference between these two arrangements? Actually, it only brings to the fore the imperfection of the existing political system. By means of the coterie election, the Government can secure majority support for its opinions. Sometimes, even though the support is in the minority, in the legislature, the Government will always receive majority support with no slips.

Today, in this Chamber, a familiar scene in the legislature replays. The Government can be likened to an old bull making strenuous efforts to pull a broken cart up the hill, whereas the broken cart is the WKCD project. The Government seeks help from others. The people at the back thus hit the bull and hope that it will run faster, but the bull can run no more. However, the bystanders say that the bull is marvellous and is running faster than a horse, and that the cart is also powerful, which runs faster than a Mercedes. By whom are the king's horse killed? The bystanders. Those being partial to the Government are indeed doing it a disservice, for when the Government's performance is poor and disgraceful, they still give it a round of applause. This reminds me of one thing. The State did make a number of mistakes in the past, but people said that everything proposed by the government was correct, and those who said the government was wrong were problematic and must have other intentions. Behaviour of this kind brings about an interesting scene, that is, people are too ready to compromise. Miss CHOY So-yuk is a typical example. Earlier on, she said she agreed with all the proposals. But like the bride at a wedding ceremony, she said no when she was asked whether she was willing to marry the groom. Why did she keep saying she agreed with everything beforehand and gave a "No" in the end? Her answer was that she only wanted to give the introductory remarks, and when it came to the question of whether she would marry him, she said no. Is this not making a force of it? Honestly,

Miss CHOY So-yuk's remarks are not entirely unjustified. It is possible if a conventional and established charter is in place. However, as I pointed out at the beginning of the scrutiny of the West Kowloon Cultural District Authority Bill (the Bill), the Government has not set up a cultural ministry. If there is no cultural ministry, how can cultural projects be carried out? It has now found Secretary TSANG Tak-sing to act as the stand-in. He wants to be in charge of many issues, even when we asked him not to bring the Legal Aid Department under his portfolio, he refused. The impact of the mess created by incompetent officials of the former Government now surfaces. I am referring to the "culling of the two former Municipal Councils". The former Municipal Councils, which gave representation of public opinions through an election mechanism co-operated well with government departments, were all dissolved. These councils were "killed" in this solemn legislature, just like Abraham killing his son to prove his faith to God.

This failure in governance has led us to this pass today. But Members have forgotten that when they "culled the two Municipal Councils" at that time, they sealed the fate of the present situation. At first, we may think that, with a sound system for absorbing politics into the executive will help accumulating experience, and someone will gradually learn how to deal with cultural or sports issues. But, in actuality, no one can do so. Today, the Government makes no commitment, for it has not drawn up any charter, while the administration by Chief Executive Donald TSANG lacks a cultural perspective. Secretary, may I ask you through the Chairman that since you and Donald TSANG work with one heart and one mind, how much time you two spend on discussions on culture? No, you have spent no time on this. A man who knows about culture definitely should not have mistaken the Cultural Revolution, buddy. It is evident that he lacks a cultural perspective. When you team up with him, he surely says he will work with one heart with you in administration, but he is indeed lying. Therefore, may I ask the Secretary through the Chairman whether he has discussed cultural issues with you? I believe he has not. He has no concept in this respect in handling the WKCD project. First, he has no vision; second, there is no organization responsible for the project. What does he do then? He arbitrarily decides to rely on the mode of administration adopted by the British-Hong Kong Government in the past. To absorb political talents is indeed a euphemism for dictatorial rule and "soft fascism". He said that he had absolute power and told us not to quarrel. He has to appoint a lot of people to a lot of organizations, and members of each organization should be appointed by him. After discussion, the decision will be made by the head of state. Mussolini was the head of state, so was Hitler. When Hitler built the New

Berlin, he said that The Third Reich would prosper for a thousand years, but eventually, it only lasted for 12 years. Why would this happen? The Chief Executive in Hong Kong grows more and more like a head of state, a Chief Executive who has supreme power. In fact, to be fair, I have reasons to oppose the WKCD project. We know from the course of discussion that he is trying to put up a money-made totem. But this will not work. The resources should be allocated to different fields, so that people engaging in different fields of arts may enjoy autonomy. For instance, the Government may allocate a certain amount of funds to the music performance industry and give them a free hand to promote development. But the Government is now spending an enormous amount of money on hardware, trying to build a pyramid, all for the sake of the Pharaoh. This is the crux of the problem.

Hence, I think it is off the mark to spend some \$20 billion and another hundreds of millions, over \$100 billion in total, to create a syndicated cultural totem instead of promoting arts development with openness, autonomy and diversification. We agreed with the building of this pyramid for the Pharaoh right from the beginning. What else can we say now? With regard to this issue, the Government already had the consent of Members. The Government thus said that it was alright and that it would like to take views. However, it would be more than enough to just listen to views it preferred. It said that it liked to listen to views, provided that the views were favourable. The Government behaves in this way, and it would only kick down the ladder afterwards. The public may think that the Government is doing a good deed, for it has offered to build a cultural district in view of the slow cultural development in Hong Kong, which will be open to the public free of charge, and even if a charge is imposed, it will be small. The Government said that the charge might be reduced if the public considered it too high. It said that if Members were worried about that, discussions on the Bill might be held, and Members had expressed their opinions about this. To date, the Government gets the WKCD but loses its face. For us, we can only force a smile when we get the WKCD.

It turns out that the entire course is completely controlled by the Government. Despite gaining full control, the Government still has to come to the Legislative Council to get its proposal stamped. What a pity? Had not the Government come here to get our stamp for its proposal, I would not have bothered about it. But it has come to us. If the Bill is passed today and problems arise in future on the WKCD project, the Government will give that standard answer again: Sorry, this has been passed by the Legislative Council, so

should all Members of the Legislative Council make no noise. A person is humiliated when he humiliates himself, and a person is respected by others when he respects himself. We can see the overall plot of the Government, that it is trying to pull wool over people's eyes and stifle criticism. If we still vote for the Government under such circumstances, we are torturing ourselves.

The Honk Kong Art Development Council (HKADC) and many government policies on subsidizing arts development involve the problem of who may obtain interests in the absence of transparency. Surely, the SAR Government is not the only one to blame, for this is in fact the result of the maternal toxin produced by the approach of absorbing politics into the executive during the British-Hong Kong rule. Since we were born in the post-colonial era, we have naturally been influenced by this maternal toxin. However, Mr TSANG is really powerful. People said that the descendents of inbreeding would inherit the weaknesses of both families. Not only has he been poisoned by the maternal toxin from the colonial rule, he has also inherited the father-knows-best governance approach from the thousands of years of Chinese history. As he comes to this pass, he becomes more and more like a king. With regard to this issue, Ms Margaret NG is right. As the incident has already developed to this stage, we can just leave it to fate. Today, the Government has submitted this Bill to the Legislative Council. Since it is related to the appointment system which is extremely corrupted at present, I must voice my views. In fact, Ms Margaret NG has rightly pointed out that we must review history and look forward. Today is the crucial moment, for we seldom have to deal with an application for funds of such a colossal amount, and we have seldom been so deeply concerned about an issue. At this crucial moment, the Government tells us that it will adhere to its established practice and there will be no change. But the so-called "double six" principle, which prohibits a person from sitting on a committee for more than six years and on more than six committees at one time, is only empty talk. The so-called regulation of statutory organizations should naturally be based on that principle. LIU-bang, the king of Han Dynasty, won the trust of his people by entering into an agreement with them. He got the whole China by simply concluding an agreement. Today, would the Government dare to conclude such an agreement? I hope the Chairman will tell Secretary TSANG Tak-sing that he should repent sincerely and give a reply proactively.

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

MRS SELINA CHOW (in Cantonese): The speeches made by a number of colleagues earlier, particularly that of Ms Emily LAU, are really fabulous. Though I wonder if they are as eloquent and forceful as described by Mr Alan LEONG, it is undeniable that if "politics stand-up shows" were to be staged in the WKCD in future, many colleagues here in the Chamber would become superstars. The subject now under discussion should be the Committee stage amendments (CSAs) to the Bill, but the political system turns out to be the focus of the debate.

Now, I would like to express the views of the Liberal Party on different amendments. For those amendments proposed and accepted by the Government in response to the request of the Bills Committee, we surely support them, for thorough discussions among Members had been held. Actually, the Government has also incorporated certain crucial elements. For instance, it has specified the factors to be considered in making appointments, so that the Board will be fully capable of and have the knowledge to fulfill its important role in arts management. Miss CHAN Yuen-han includes in her amendments some specific conditions that Board members should meet in respect of extensive knowledge of, or wide experience in or exposure to arts and cultural activities. However, from our point of view, at the Board member level, provided that the major principle — the major principle I read out earlier — is met, there will be sufficient room for the Government to select and identify the talents it requires.

Ms Margaret NG was quite frank earlier. She said that today was critical, for the discussion was not only about the appointment of Board members but the entire appointment system. For the reform introduced via the present appointment of Board members of the West Kowloon Cultural District Authority (WKCDA) will have a bearing on the entire appointment system. She mentioned the Nolan Principles earlier and said that the principles were all included in Mr Alan LEONG's amendments (Part 5 to the Schedule) as conditions for the appointment of Board members and the Chief Executive Officer.

I recall that during our discussion, Mr LEE Wing-tat mentioned that the best practice approach was the most desirable and we agreed to that. We consider that best practice reference is good, but it does not mean that each of

these conditions should be specified in the legislation. Surely, the merit of specifying these in the legislation is clarity, but the disadvantage is somebody will be checking them one by one, particularly when so many requirements are included. Will these conditions stand challenges, say legal challenges?

Certainly, Members basically have different opinions. In fact, the Liberal Party does not agree or is not satisfied with all the appointments. We also agree that there must be some measure of transparency in respect of appointment. For instance, should we know clearly who can be recommended? We agree with this point. We agree that the appointment of a certain person should be based on certain justifications. These justifications in fact involve another major policy. Besides, this is not only applicable to the WKCD project, and all appointments should indeed be based on some basic principles. However, should these be specified in legislation? We may not necessarily agree with this.

Actually, the heart or crux of the problem is whether the Chief Executive should have the power of making appointments. Should he be conferred such power? If he should not have the power of appointment, members of the Board should be selected by election or recommendation, and the legislation should take away all such power. Basically, we are discussing whether we should accept an executive-led government because we consider that the Chief Executive should primarily have some power to make appointments. Particularly under circumstances where appointment is required, does he need to have the power of appointment? When he exercises the power of appointment, he surely should follow the best practice or some other fundamental principles. However, should these fundamental principles be specified in respect of individual organizations to which appointment is required? We do not agree with this point.

Moreover, on the issue of whether Members of the Legislative Council should elect among themselves a member to the Board, we have no objection. However, concerning Mr James TO's request to have two Board members elected from among Members of the Legislative Council, we query if it is necessary to have two Members of the Legislative Council to sit on a board of 15? He does not say whether it should be not more than two or at least two, but only two. In respect of the number of members of the Board, we consider it inappropriate to have too large a Board. But on the candidacy of Board members, we also require the composition of the Board to be diversified. As

such, is it really necessary to have two Members of the Legislative Council to sit on the Board? According to the present proposal of the Government, there should at least be one Member of the Legislative Council. Actually, if it can be assured that the Board will include a Member of the Legislative Council, we think it may not be necessary to have two Members of the Legislative Council.

As for the other amendments, Members understand the point made by Mr SIN Chung-kai earlier. Since he is the representative of the information technology sector, he definitely has to express his views related to information technology. However, we think that on the requirement related to professional knowledge, it may not necessary be a serious cause of concern. Is it a prerequisite for the Authority to have specific requirements, or special knowledge, on information technology sector? We do not necessarily think so.

These are our views on all the amendments. Thank you, Chairman.

MS MARGARET NG (in Cantonese): Chairman, I shall be brief by all means. Chairman, the speech made by Mrs Selina CHOW earlier is very typical, even the Government cannot present the case so well. According to her, they do not object the principles proposed by us, nor do they oppose our practice. But these principles and practices should not be laid down in laws. Even if we want to do so, it should not be done now. Besides, it is not necessary to include these principles in the legislation of each of the organizations concerned.

Chairman, right, it is not necessary to include these practices in the legislation of each of the organizations concerned. We only need to include these practices in the legislation of one of these organizations, and we may follow the specified arrangement in future. This is after all practicable. Actually, when we say that it is not necessary to include it in the legislation of each of the organizations concerned, we mean it should not be written in the legislation of any organization. The appointment principles and procedures now in question have actually been accepted and implemented in other places long since. These are established and normal procedures. At issue is whether the procedures can be suitably applied today, whether there are any inadequacies and whether there is room for improvement. A distinctive characteristic of the SAR Government is the many intrinsic inadequacies in its political system. For this reason, whenever problems in this respect arise, the relatively sound legal

system will be used as a resort to make up for these inadequacies. Today, we are working on this precisely.

The remarks made by Mrs Selina CHOW earlier seem to suggest that the inclusion of the principles in the legislation, as proposed by us, will take away the power of the Chief Executive in making appointments. This is ludicrous. All powers should be exercised judiciously.

We only require that a set of principles be clearly laid down, so as to specify how the power should be exercised in a proper, reasonable and fair manner. Why do we have to do this? Chairman, if it is not specified clearly, the Chief Executive may think that he may exercise his power arbitrarily. The provisions proposed by the Administration today give the Chief Executive the power to act in his opinion where the Court cannot intervene. This is exactly where the danger lies.

As written in the provisions proposed by us, the appointments must be carried out in a fair, open and impartial manner, and there should be objective requirements and criteria for the public to judge whether the appointments are correct. With such provisions, it is no longer necessary for the Bureau to include the various details in the provisions it proposed today. There is no need to specify that landscape architects are required today and surveyors are required tomorrow. All we need is a fundamental principle. Only this is the correct approach.

If this is the correct approach, why immediate implementation is not recommended? Since inadequacies are identified, why should remedial measures not be introduced? Why should the amendments not be proposed this time but be postponed until next time? By the next time, they may propose to postpone it further. After all, the Government wants no amendment. This is the fundamental aim of the remarks made by Mrs Selina CHOW. Thank you, Chairman.

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

DR FERNANDO CHEUNG (in Cantonese): Chairman, I have to reiterate that the appointment system is the cornerstone of democracy, which is of great

importance. This time around, the West Kowloon Cultural District Authority (WKCD) will be responsible for the management of an asset costing a colossal amount. This is one of the major development projects in Hong Kong, an outstanding project in history. The appointment principles for members of the WKCD are definitely very important, for these have a bearing on who will be appointed as members. Many colleagues worry that the WKCD project, which is a fat piece of meat, will eventually be divided by the wealthy and consortiums. We have to prevent this from happening, ensuring that the WKCD will genuinely serve the public. This is very important.

Mr Alan LEONG mentioned the Nolan Principles in his amendment. Chairman, this set of principles was proposed in the United Kingdom in 1995. At that time, they called it the Commission on Standard and Public Life, and many members of the community called it the Nolan Committee. They put forth seven fundamental principles which should be upheld by public figures or public officers serving the public. I would say that these principles are applicable in all circumstances. In the modern society today, all public figures, be they elected or appointed, and those who occupy certain important government posts, like the Directors of Bureau and the newly created Under Secretaries or Political Assistants, should all adhere to this set of principles. The Committee has developed many specifications on the regulation of appointment, and established the Office of the Commissioner for Public Appointments, which is for the public I do not know the proper translation of the term "Public Appointment", but an independent commissioner is made responsible for monitoring the government in making these appointments.

The relevant code of practice can be found on the Internet, which spans 84 pages. It specifies clearly some fundamental principles, stating how power should be exercised in an open and fair manner in an open society, ensuring that the appointments made satisfy the principle of merit. Actually, this set of principles has been adopted in other places for a long time, starting from some 10 years ago. But now, we are still saying that the inclusion of this set of principles in the legislation may scare others. Over these years, since the establishment of the SAR Government, from TUNG Chee-hwa to Donald TSANG, these appointments have been based on cronyism. Donald TSANG goes one step further by stating openly that he will adopt the "affinity differentiation" approach. These arrangements are improper, leading the Government to listen to only one-sided views and the policies it proposed are all wrong. Since you only appoint those who toe your line, you are surrounded by

sycophants who know only lavishing praises on you and flattering, as a result, the issues are handled the wrong way. We know the situation by just looking at the appointment of the Directors of Bureaus, Under Secretaries and Political Assistants.

Today, we request to include certain principles in this important project, the WKCD. Since these principles are recognized by all advanced societies, why can we not do so? In the code of practice of other places, it is specified that there will include the processes of planning, preparation and election. Open and fair requirements are included in all these processes. It is also specified that advisory bodies are classified into two categories according to their power and purview, and a two-tier system is thus formed. For organizations on the first tier, the coverage of their purview is wider and of greater importance, and the resources involved may be more, thus more stringent requirements are imposed. For other organizations, the requirements will be less stringent.

Since a comprehensive system has long since existed, why should we not make reference of it? Why do we not introduce the good things of others to Hong Kong today to build a fairer, more impartial and open society? These criteria are simple. It really puzzles me why Mrs Selina CHOW would say earlier that the crux of the problem is whether the Chief Executive should be given the power of appointment. The amendment proposed by Mr Alan LEONG does not challenge the power of appointment of the Chief Executive. The power is still in his hands, but the power must be exercised properly, subject to checks, and in a fair and impartial manner. These principles are thus introduced to ensure the power will be exercised in a fair and impartial manner.

Actually, the request of Mr Alan LEONG is minimal. In Britain, if the Nolan Principles are really followed, he must appoint an independent assessor. This independent assessor, who will monitor the entire appointment process, must be selected from the Commissioner's list or through open recruitment. Therefore, in addition to the Commissioner, an independent person will monitor the entire appointment process to ensure that everything is carried out in a fair and impartial manner, the requirement of providing equal opportunities is fulfilled and the criteria of maintaining diversity is met.

Today, our society is a pluralistic society. I mentioned the need of people with disabilities in arts development yesterday. However, do the appointments made today include people with disabilities and members of the inclusive arts sector, so that the overall development of the WKCD project can reflect their need in this respect? The ethnic minorities also have their cultural characteristics in Hong Kong. In the appointment process, will people with such background and knowledge be appointed to cater for the needs of the ethnic minorities? What is pluralism? In the cultural development of the WKCD in future, how can we ensure that the WKCD will cater for the needs in arts development of different strata of society and people of different identities?

Therefore, Chairman, I earnestly hope that colleagues of the legislature will not only strive to protect the Government, for there are proper things that we should do. The present issue is obviously something that we should do. These principles should have been introduced long since. As Ms Margaret NG said, these principles should have been established rules and our debate here is indeed unnecessary. The introduction of these principles, which have been implemented in other places 10-odd years ago, is discussed only today, but the inclusion of such principles in the legislation is still claimed to be unnecessary. I think this is completely unacceptable.

Thank you, Chairman.

MRS SELINA CHOW (in Cantonese): Chairman, I would like to make a clarification, for the speech made by Dr Fernando CHEUNG earlier suggests that he may have slightly misunderstood my meaning.

When I said earlier that it was not allowed under the power of the Chief Executive, I was basing on some earlier remarks made by certain colleagues that it was unacceptable to let the Chief Executive decide the appointments in his opinion. Why should this be left to the Chief Executive? Why should the opinions of the Chief Executive but not other people count? This is thus concerning his power of appointment, he as the may have his own opinion. The appointments should not only meet the specified criteria, but also the opinion of the Chief Executive for them to be acceptable.

Dr Fernando CHEUNG also stated clearly that such opinion should be decided by an independent committee. He queried why the opinion of the Chief Executive should be taken into account. If this is not a point targeting the core of the power of appointment, what is it then?

So, Chairman, I do not wish to spark off another round of debate on the political system, I only want to clarify this point and that is it.

(Mr James TO raised his hand to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr James TO, you can speak again later, do you wish to speak now?

MR JAMES TO (in Cantonese): Yes, Chairman, when I speak later, I will consolidate all the arguments, but now, I would like to make a minor point.

Chairman, I would like to response to the remarks of Mrs Selina CHOW. Looking back, in the past few months or years, many laws have been passed for the setting up of various councils, such as the Construction Industry Training Authority and the Occupational Safety and Health Council, and so on. There were quite a number of them. Were there many appointments made adopted by the Chief Executive in respect of these councils in a lax manner that attracted our queries? Not that many the past. But why do we care about this so much now? I think this should be attributed to the following background. In recent years, the appointments made by the former Chief Executive TUNG Chee-hwa and the incumbent Chief Executive Donald TSANG, particularly after the introduction of the so-called accountability system, have revealed to us the criteria applied, the perspectives and factors which should and should not be considered in making appointments. However, the final outcome of such appointments caused the public to query whether the Chief Executive should be allowed to have all the power in a lax manner, particularly when the Chief Executive is not elected by universal suffrage?

Therefore, under this political system, for councils of less importance, which will not have much influence on the public, this Council may still adopt a relatively co-operative posture and consider the Government relatively

trustworthy, for after all, the impact will not be substantial. However, the influence of the WKCD now under discussion will be enormous, which will affect the future development of arts and culture in Hong Kong. It is a significant milestone and an important investment, which involves a large stretch of land and exhibition halls. One of the objectives of the project, as written down, is to provide a future direction of great significance for the promotion of arts and cultural development in the next decade or two. Against this backdrop, we are having an in-depth discussion in this Chamber. Honestly, the amendments proposed by Mr Alan LEONG are very humble. With regard to the Nolan Principles, he has only put forth a summary of the original principles, extracting several fundamental points. But it does not matter. It is hoped that these several points will make the Government led by the Chief Executive sense that the public is concerned about this, and that it will be willing to compromise in some measure to include these principles in the legislation, instilling confidence in the public that the Government will comply with these principles. If so, this is a new progress. Just like a ball game, it should have interactions with both the public and Members. In fact, in view of the recent incidents, the confidence of the public is wearing thin.

But, unfortunately, the Government says, "It is your own business that you lose confidence. I think it is right. Even though your amendment is minor, I will not back off, not even one step. Though the content is only slightly amended, I will not agree with it for I want absolute power, absolute power of appointment." We are now in a deadlock over this contentious point. We do not put forth the proposal without a reason, nor do we request a sudden change of approach irrationally. This is not the case.

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

DR FERNANDO CHEUNG (in Cantonese): Chairman, Mrs Selina CHOW said earlier that when I pointed out that the Nolan Principles adopted under the British system included the appointment of an independent assessor, I made the same request. She thus considered it a challenge to the power of appointment of the Chief Executive. If the Chief Executive considers a certain candidate unsuitable for appointment, it has to pass through an independent appointment procedure or an independent selection process.

Had Mrs Selina CHOW studied the legislation carefully, she would have noticed that the legislation stipulated unequivocally that the power of appointment was in the hands of the Chief Executive. Actually, under many other systems, even that for the selection of members or ministers of the cabinet by the President of the United States, a procedure involving public discussion is put in place, and the authorization of the Congress by voting may be required. Is this not a procedure which is more open and fairer, and can ensure the judicious exercise of power? Concerning the ultimate power of appointment, does it mean that the President of the United States has no power of appointment just because the approval of the Congress is required? Definitely not. Mr TSANG may appoint the Director of Bureau in his capacity as Chief Executive, but the appointment has to be authorized by the Central Authorities. Does it then mean that the Chief Executive has no such power? No.

The present situation is that the Chief Executive does have the power of appointment, and we hope that this power can be exercised judiciously. If the power is to be exercised judiciously, the appointments cannot only be made according to personal preference. Today, in an open society like Hong Kong, specific requirements, systems and checks and balances must be put in place for appointments to these important posts, so that these appointments can reflect the diversity and objective criteria imposed. These are our requests. Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, Mr Alan LEONG, do you wish to speak again?

MR ALAN LEONG (in Cantonese): Chairman, at issue is what makes the power of appointment. If the Chief Executive considers that he has the power of appointment only when he can appoint anyone according to his personal preference and subject to no restriction, say he may appoint a member just because the member is tall, short, fat or thin, we are surely challenging his power of appointment then. I need not evade this point.

However, I believe Mrs Selina CHOW will not agree that the power of appointment of the Chief Executive equals to the use of public money for private purposes and forming cliques. If she considers this unacceptable, I see no profound difference between us. If I should be convinced that the power of appointment in the hands of the Chief Executive will not be reduced to a tool for using public money in furtherance of private purposes and forming cliques, as I described earlier, then he should accept a set of objective principles and criteria in making appointments. Chairman, as I said in the first speech I made this morning, this is not my original amendment. In my original proposal, I proposed that a selection committee, which is independent of the Chief Executive, should be set up to screen and nominate candidates. However, I do not want to bring about this in one go. I think if the Chief Executive can follow the Nolan Principles in practice, we can at least take the first step. Just as many colleagues have said, this is a golden opportunity, particularly after the row on Under Secretaries and Political Assistants, for the Chief Executive to express his willingness to have dialogue with the public and answer the request of the public for the appointment of public offices.

Chairman, we have mentioned the Nolan Principles many times and I believe the public will be eager to know what they are all about. Chairman, in 1994, some members of the Conservative Party in Britain were involved in a series of scandals related to commercial rewards. The then incumbent Prime Minister John MAJOR commissioned Lord Nolan to chair the Committee on Standards in Public Life. In the report of Lord Nolan, he proposed seven principles, namely, selflessness, integrity, objectivity, accountability, openness, honesty and the setting of examples in leadership. Later, for easy reference, these principles are called the Nolan Principles. Actually, the Commissioner for Public Appointments in Britain has once adopted the Nolan Principles.

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

Actually, if the power of appointment is not judiciously exercised, what adverse effect will it result? I believe that at the present timing, the incident on the Under Secretaries and Political Assistants is the best answer to this question, which speaks volumes about the question under discussion today. Since the Chief Executive and the officials defending him, more often than not, say that the Under Secretaries and Political Assistants are appointed on merits. But according to Chinese culture, appointments are not made on merits, Deputy

Chairman. How are virtues reflected? In fact, the criteria included in the Nolan Principles, namely, selflessness, integrity, objectivity, accountability, openness, honesty and the setting of examples in leadership, are the manifestation of virtues. The Secretary said that it would be difficult to write them into the law. Some Members, whom I believe hold the same position and argument of the Government, think that once these criteria are set out, they will be subject to challenges in law. Hong Kong is a place that upholds the rule of law. If these criteria are set out in law and challenged according to the proven legal principles, and if the challenge is successful, improvement should be made to strive for perfection. This is the spirit of the system of Hong Kong to subject to judicial monitoring, for this is part of the system. Why should there be any worry then? However, if these criteria are not set out, it means that the public can in no way challenge the Chief Executive of the appointments made by him in future, no matter he appoints "Mr Tall" or "Mr Short". Certainly, I hope that Chief Executive Donald Tsang will adopt a people-based approach, considering the appointments from the perspective of public interest, appointing those who can really promote the WKCD as the catalyst for developing Hong Kong into an international cultural metropolis. However, if he fails to do so, what kind of safeguard can we have?

Deputy Chairman, this morning, when I spoke on the Bill for the first time, I said that men could not be trusted but systems could stand up to challenges for thousands of years. Now, our proposal seeks to set up a system like this. Surely, I will not underestimate the difficulties faced by the amendment proposed by me, for the amendment runs counter to the present approach adopted by the Chief Executive in exercising his power to make political appointments direct. If he is restrained by a set of objective criteria or a non-subjective benchmarking system, how can he have the condition to dish out these political rewards? How can he maintain the relationship with people who toe the line of the Government, the executive and the Chief Executive? Therefore, I definitely have not underestimated the difficulties I will face in proposing this amendment today. Perhaps, Deputy Chairman, I should put it this way. I fully understand that this amendment will not come to a good ending. If the incumbent Chief Executive and his political team accept my amendments to the Bill, these criteria, which are applicable to the WKCD project, will also be applicable to other statutory organizations. If these criteria are applicable to policies on arts and culture, they may also be applicable to the conservation of historic heritage and constitutional reform. Hence, the impact is significant. Today, I have proposed a debate in this Chamber in the hope to

lay the issue in front of the eyes of the 7 million people of Hong Kong in a practical and realistic manner, so that they know whether this issue relating to the political development and people's livelihood in Hong Kong is handled in a manner compatible with public opinion. This is the crucial point.

Therefore, even though I know the chance of success is next to impossible, I will not give up. Deputy Chairman, I believe the amendment proposed by me today points to a development direction with foresight. The people of Hong Kong look forward to smooth administration and harmony. I believe, before the Chief Executive and all Members of the Legislative Council are elected by "one man, one vote", this is an essential step in respect of the appointments to public offices. Without this step, I believe smooth administration and harmony will only be farther away from us.

Deputy Chairman, the success, or failure, of the WKCD depends on these 20 Board members and the Chief Executive Officer appointed under clause 7. If we adopt the current practice and style of the Chief Executive, that is, the affinity differentiation approach, we know without seeking advice from rocket scientists that he will shut out at least half of the talents in Hong Kong. I do not suggest a higher number, just make it half. It is already a loss to Hong Kong and the WKCDA.

The amendment proposed by me today is directed against the one-voice culture established by the Chief Executive through a division and affinity differentiation approach. I wish to initiate a discussion focusing on the unfair and unjust situation, as well as the situation impeding the development of Hong Kong. Certainly, today, we are discussing issues relating to the appointment of Board members and the Chief Executive Officer under the Bill. I only wish to reiterate, if we condone the Chief Executive in adopting the affinity differentiation and one-voiced approach as the benchmark for appointing Board members when he exercises his power of appointment, the resources invested on the WKCDA and WKCD will probably go down the drain. This is a cause of concern to me. I hope that the amendment proposed by me today can win the support of Members of this Council. Definitely, this is not a move to challenge the power of appointment of the Chief Executive. If any, I am challenging the power allowing him to use public money in furtherance of private purposes and forming cliques.

Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): Miss CHAN Yuen-han, do you wish to speak again?

MISS CHAN YUEN-HAN (in Cantonese): Deputy Chairman, just as a number of colleagues proposing amendments and I have emphasized one point earlier, that is, the success of the WKCD depends heavily on the overall composition of the WKCDA. In other words, the composition of the Board is crucial. Not only colleagues proposing amendments to clause 6 hold this opinion, actually, we have all along heard that organizations appointed by the administration framework of the Government, such as the Museum Advisory Group, also have strong views about this.

In order to develop the WKCD into a place with competitiveness and style, we have to enlist the assistance of this group of people. I do not want to see that As I pointed out earlier, my amendment is very humble. My approach is different from that of Mr Alan LEONG. Mr Alan LEONG specifies the criteria in the Schedule while I include them in the clauses. Certainly, the Schedule proposed by Mr Alan LEONG may have a bearing on the provision, but my amendment specifies the criteria in the clause direct.

This is still a cause of concern to me though the Government has listened to our views in the course of the scrutiny of the Bill and amended certain clauses. For instance, the Government has accepted my opinion by including in the clause my proposal on "the Mainland of China, Hong Kong or any other place". I welcome this amendment.

However, the crux of the problem is whether the wordings of the clause cover the sectors mentioned by me earlier, which Selina claimed so earlier. Even if I am interrogated with torture, I will say I do not see any of the sectors mentioned by me being covered. I want to stress that these sectors cannot be found in the legislation. In the original clause, the Government has not included this sentence "are of good standing in the field of arts and culture or have extensive knowledge of or wide experience in or exposure to, arts and cultural activities". I asked members engaging in the cultural field read this. And they said, "Miss CHAN, with regard to the names listed here, we respect them. However, I think if these people do become members of the WKCDA, I worry that many views of the community will not be absorbed." I thus made

some amendments and added the specific provision. My amendment is on another part.

Why do I do so? In fact, in the past, when we scrutinized certain Bills, we trusted the Government on the composition of certain authorities, but later many problems arose. In the light of this, the present situation prompted me to propose this amendment. "Trust you. Trust me, trust me." I cannot help asking, "Trust you on what?" I will trust you if I know that there will be checks and balances in various aspects with the trust I placed. But in the absence of checks and balances, power will corrupt. Anyone holding power will become self-righteous at a certain point. When he becomes complacent, he will make mistakes. When he has hijacked the majority public opinion, he will discount these opinions. He may turn a deaf ear to these opinions. He surely can do that. Power can turn a good man into a dictator. I think people studying this subject know this in their hearts of hearts. Power corrupts. When he has the support of all of us, he will make blunders at this point. When one is complacent, one will make mistakes. This is the traditional wisdom of Chinese, the essence derived from its culture of thousands of years.

At present, I am not taking it to the extreme. Had I taken it to the extremes, I would have amended clause 6(5), "all Board members, other than the Chief Executive Officer, are to be appointed by the Chief Executive." But I will not amend that part for the time being. I earnestly hope that if such is the case, the problem of bureaucratic power concentration will not arise. As I said earlier, those who are absolutely obedient and give only agreeable opinions are appointed, but for those who make disagreeable remarks, even if they have already been appointed, they will be ousted. As a result, culture is made equivalent to recreation. The views of the community vary with the decisions made according to his preferences. There were some incidents in the past, which had eventually led to some heart-breaking situations, and these situations came to our minds during the scrutiny of the legislation.

I do not want to say too much. All along, I have been criticizing these two clauses, and I thus put forth my amendment this time. I do not amend subclause (5) now, for I think it is still acceptable. I will leave it intact. However, I would like to include my past experience in the legislation, the experience I learnt from the scrutiny of the legislation on Chinese medicine, the Chinese Medicine Ordinance, and the Urban Renewal Authority Ordinance. In the case of the legislation on Chinese medicine, we stated clearly that there were

8 000 to 9 000 traditional Chinese medicine practitioners in the trade. As the trade was not subject to regulation in the past, the introduction of regulation at the time should take into consideration the provision of room for survival of this group of people.

Deputy Chairman, you know that employment is a prime concern to me. Honestly, at that time, I feared the introduction of regulation to the trade under the legislation would prevent existing Chinese medicine practitioners from continuing their practice. At that time, this was a grave concern to me. Subsequently, the Government accepted our request to establish a qualification of listed Chinese medicine practitioners. Certainly, this arrangement would be applicable to certain eminent Chinese medicine practitioners, say those who have 10 years of experience or equivalent qualifications. However, for those Chinese medicine practitioners lacking the specified qualifications or certain marginal cases, they can only be qualified for practice through other means, including passing the required examinations.

All our opinions were written down and submitted to the Chinese Medicine Council of Hong Kong (CMCHK). However, they raised the threshold of all the requirements, for they considered that Chinese medicine practitioners should be subject to the same regulation as Western medicine practitioners. They were all nonsense. At that time, I pointed out that 9 000 people were engaged in the Chinese medicine trade, the CMCHK's act was a decision made arbitrarily according to its own will and from its own perspective. This view of the CMCHK had become the laughing stock of some people, even certain Chinese medicine practitioners. However, these people were scared. For since the introduction of regulation, even the career of those eminent Chinese medicine practitioners might be affected. No one wish to see that.

Let me tell you a joke, one I mentioned in this Chamber before. When I stood for the election in 1990, I already knew this Chinese medicine practitioner. The Chinese Medicine Ordinance was only enacted a few years ago, which meant by the time the Ordinance was enacted, this Chinese medicine practitioner had been practicing for some 20 years. However, when the Ordinance was enacted, he could no longer be a Chinese medicine practitioner for he had no registration. The registration made was not in his name. In other words, the one who registered was not a Chinese medicine practitioner but could ironically practise as a Chinese medicine practitioner just because of his eligibility for registration. However, this Chinese medicine practitioner who had been

practicing Chinese medicine all along was not eligible for registration. I was tremendously frustrated by this incident.

There are cases where practitioners good at acupuncture are not eligible for registration, for they have never written out any prescription. Similar cases abound. This group of people is all included in the list of listed Chinese medicine practitioners. All the colleagues who had participated in the scrutiny of the legislation, including Ms LI Fung-ying, Mr LEUNG Yiu-chung, me and Cyd, and so on, were utterly angry about this. This was not the original intention stated during the scrutiny. We had been very cautious during the scrutiny. As the trade was subject to no regulation in the past, we appreciated that the trade would certainly encounter some difficulties with the introduction of regulation, and we thus included certain principles to cater for the situation. However, the CMCHK said that it was an independent organization. We then queried the Director of Health about this, but he said it was not his business for the CMCHK was independent and he could do nothing about it. I said this was not the case. During the scrutiny of the Bill, what did the Administration promise us?

Honestly, I have no intention to condemn members of the CMCHK. Let me tell you one thing, it is really ridiculous. Even members of the CMCHK consider that they should protect certain people. In the light of this situation, if we do not deal with the composition of the WKCDA cautiously, we will once again fall for doing an injustice.

The second example is the Urban Renewal Authority (URA). The Urban Renewal Authority was set up in 2001. At that time, the Administration promised us that the 25 projects left behind by the Land Development Council would be properly dealt with within five years. But the projects at Nga Tsin Wai and Yue Man Square were not dealt with. I thus instigated the residents to sue it. Members should know that I am good at that. I wanted to initiate legal proceedings against it. Early last year, I instigated the residents to sue it, for it was utterly unreasonable. I asked LAM Chung-lung why an agreement could not be reached when the deadline had already passed. He said, "Miss CHAN, a lot of details have to be negotiated." Later, we understood what their negotiation was about.

It turned out that they were negotiating with the Cheung Kong (Holdings) Limited. I revealed this to the media. If they could negotiate with Cheung

Kong, why could they not negotiate with the residents in Nga Tsin Wai? Why? We kept complaining about this, but the URA just turned a deaf ear to us. Hence, there was a time I resorted to rebuking members of the URA, including Mr Alan LEONG, but he is not on the URA now. I forgive my colleagues, for they are only in the minority in the URA. How much influence can they exert? I thus agree with Ms Emily LAU that despite the inclusion of one Member, or even two Members, of the Legislative Council in the Board of the WKCD, honestly, they can hardly exercise any influence given the overall control by the officials. However, I must voice our grievance.

Moreover, as I pointed out yesterday, to play safe, we have specified in the legislation the requirement to assess the impact on the community and employ social workers for such purposes. They were really unfortunate, for the social workers concerned have to take up the work of estate agents. I think it was demanding on them. They were employed by the URA. Am I right? They had to listen to the URA, for they were employed by it. At that time, it seemed like while the righteous was mighty, the sinister was even mightier. We fail to look at the issue from this perspective. It was really amusing. Therefore, even if an independent system is introduced by the Government, it will be subject to many changes. Later, the Secretary may give certain undertakings, but there is a possibility that these will change. As such, I have taken a moderate route. I only specify the requirements, that is, in addition to the first part accepted by the Government, let us see what has been written down by me under (a) and (b).

I point out that the Government must appoint persons who have the following experience and knowledge: (a) arts or culture management, education or planning; (b) arts or culture creation, interpretation or critics; or (c) arts or culture donation. I have drawn reference from the case of the Hong Kong Arts Development Council and written it into my amendment. Certainly, I have also heeded the views of the sector in respect of certain details. They said that with the provision so written, some people who were active in the cultural field but were not eminent, and those who were not regarded as eminent, might still be appointed. I do not want to say too much. They have a lot of opinions. In other words, the Board members can be selected by the sectors concerned. But even if Board members are selected from the sectors, there are still a lot of problems. The two members from the HKADC know that there will be problems, but they still consider it good to adopt such a practice, for it is positive.

As Mr WONG Kwok-hing said, a design makes all the difference. So, I would say, in the face of this group of people, I have not yet gone to that point. In 2001, I visited the United States. I went to New York and San Francisco. What was the situation in San Francisco? At that time, we went past a place call Locke Town, which was the residence of people had come in the early years to pan for gold. Strictly speaking, it was a place where Chinese lived in the early years in San Francisco. In the vicinity of the town is a place where people can pan for gold. At that time, the place was already bought by a large estate developer from Hong Kong, who decided to demolish the entire town. Certainly, this provoked fierce angers among the residents there, for they treasured their culture and characteristics. I also felt that deeply when I was there. What happened eventually? There were disputes in many aspects, but in a civil society, this was settled by a referendum. This was the situation in a small town near San Francisco. Later, when I had returned to Hong Kong, I learnt that the local authority had decided that the town be retained. The local estate developer who came from Hong Kong was in trouble.

I also visited Chicago. Since the Government of the United States knew that I was a critical person, they took me to visit the Court, it should be the legislature. At that time, a discussion about the community planning of the district was going on. It was an eye-opener. A lot of public hearings were held there. Someone would carry a lot of plans and enter the legislature to express their opinions in just flip-flops and shorts. These scenes reminded me of two scenarios. First, it is on the situation where there are different opinions. Unlike us, they provide a lot of opportunities for the public to participate. In the end, when there are disputes, the difference in opinions will be settled by voting.

I mean to say that they are several steps ahead of us. At present, we are only discussing the inclusion of certain criteria in the legislation, which are now adopted for the HKADC. However, I said earlier that I would one step further. Let me tell Honourable colleagues my further amendment. I will propose the selection of representatives by the sector. Besides, since the appointment system is beset with so many problems, I wonder why we do not adopt that practice as an alternative. These views are so moderate. I am not proposing the abolition of the requirement that all Board members should be appointed by the Chief Executive. I do not request to adopt such a practice in the form of a Schedule, for I think the approach to use the Schedule is a bit outdated. Alan LEONG, pardon me for saying so. Actually, our amendments are very

moderate. If I go further, I will include some election criteria. In other words, we have tried to come to compromise on all aspects. We understand the political situation in Hong Kong, and we have thus chosen a moderate approach, hoping that our views will be incorporated.

Selina might have got the wind from the Government that they supported Miss CHAN's amendment. Esther said that she supported me, but my amendment was not feasible in the legal context. For this purpose, I invited a person in the legal and culture field to help me draft my amendment. Since he had to visit Beijing and Taiwan, we have to exchange our views through emails. He then pointed out that the content of my amendment was correct, but it was unnecessary to be so specific, the inclusion of the spirit would suffice. The spirit was there. I read carefully the amendment of the Government which has incorporated my amendment to find the spirit behind it — "members who have good standing in the field of arts and culture from Hong Kong, Mainland of China and international (this is my amendment), or have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities". Only the wordings "in the Mainland of China, Hong Kong and international" in my amendment has been incorporated. Apart from this, I do not see any part of the content read out by me earlier have been reflected in the clause?

It really baffles me. I thus think, if the Government cannot accept an amendment as humble as this, it is only evident that the Government refuses to move forward. The political system in Hong Kong is still developing. It is crystal clear that there will be universal suffrage for the Legislative Council in 2020. Moreover, if my memory has not failed me, the Chief Executive will be elected in 2016. I just want to point out that development is going on in Hong Kong. For a project, the WKCD project, to which the public attaches great importance and involves substantial investment, why do we not try to introduce more public opinions into it through the appointment system? I would like to introduce more public opinion into it to prevent the recurrence of the present situation where power is concentrated in the hands of bureaucrats, where only those who are absolutely obedient are appointed and where views are taken on board according to personal preferences. Can we do so? If this can be done, the constitutional reform proposed by the SAR Government in the next term may give us a glimpse of hope.

Deputy Chairman, I so submit.

DEPUTY CHAIRMAN (in Cantonese): Mr SIN Chung-kai, do you wish to speak again?

MR SIN CHUNG-KAI (in Cantonese): Deputy Chairman, a few words. Having said so much, I just want to have two members elected from among Members of the Legislative Council to sit on the Board, and to include among the professionals members of the information technology sector.

Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): Secretary for Home Affairs, do you wish to speak again?

(Secretary for Home Affairs shook his head to indicate he did not wish to speak again)

DEPUTY CHAIRMAN (in Cantonese): Mr James TO, do you wish to speak again?

MR JAMES TO (in Cantonese): Deputy Chairman, I would like to make one point only.

Earlier the Secretary said that it was difficult to definite those criteria in law. I heard Dr KWOK Ka-ki query earlier that if the Secretary's argument was valid, how Mr Timothy FOK could be elected from the constituency concerned. He also mentioned the Hong Kong Arts Development Council (HKADC), which many colleagues have also mentioned. I would like to talk about the provisions in specific.

Deputy Chairman, according to the ordinance governing the HKADC, the Chief Executive may appoint not more than 22 members. It is specified in the legislation that the Chief Executive may by notice in the Gazette specify up to 10 organizations or groups of organizations each of which shall, in the opinion of the Chief Executive, be representative of 10 specified interests in arts. As I have read these out earlier, I will not repeat them now, but these interests include

literary arts, music, dance, drama and Xiqu, and so on. If my amendment is passed, various levels of election can be held under the WKCD as provided for in law. Certainly, that must be genuine elections. When there are various levels of election, it will definitely involve the defining of eligible electors. However, the present problem is that it will be difficult to do so.

Similarly, according to one of the sections under the subsidiary legislation, if the HKADC considers with reasonable causes that certain organizations or groups of organizations belong to that area in law, it may specify Even if there are 100 or 200 organizations, it will form the base of the election or the electorate. Therefore, we cannot say that it is impossible to define certain things. It may stipulate the relevant definition in the law, or specify on whose opinion it should rely. This is at least a kind of election. Of course, if it is carried to the extreme, only two organizations will be eligible. But it may still do so. If it is carried to such an extreme, the Court may initiate a judicial review. It may say that the principal ordinance does not mean to provide for election, and that the subsidiary legislation which narrows the scope of eligible electors to only two organizations or 30 individuals, aiming only to satisfy the conditions of election, should not be applied.

Therefore, the room provided under my amendment is indeed large. At the same time, there are actual examples in the laws. An objective balance can be struck. It is possible to give the relevant definitions and apply them. There are different formulas to specify a system that includes members returned by election but not purely by appointment by the Chief Executive. My proposal will prevent the various problems mentioned by us.

DEPUTY CHAIRMAN (in Cantonese): Mr James TO, you may move your amendment.

MR JAMES TO (in Cantonese): Chairman, I move that clause 6 be amended.

Proposed amendment

Clause 6 (See Annex III)

DEPUTY CHAIRMAN (in Cantonese): Before I put to you the question on Mr James TO's amendment, I wish to remind Members that if the amendment is passed, Mr Alan LEONG Kah-kit may not move his amendments to clauses 6 and 7 and the schedule, Miss CHAN Yuen-han and Mr SIN Chung-kai may not move their amendments to clause 6, and the Secretary for Home Affairs may not move his amendment to clauses 6(3) and (9), but he may move the rest of his amendments to clause 6.

If Mr James TO's amendment is negatived, the Secretary for Home Affairs may move all his amendments to clause 6. Subject to the voting result of the Secretary's amendments, the Committee will then deal with the relevant amendments by other Members.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

DEPUTY CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute, after which the division will begin.

(THE CHAIRMAN resumed the Chair)

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

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

Functional Constituencies:

Ms Margaret NG, Mr SIN Chung-kai, Dr Joseph LEE and Dr Fernando CHEUNG voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Prof Patrick LAU voted against the amendment.

Mr WONG Kwok-hing, Mr CHIM Pui-chung and Mr KWONG Chi-kin abstained.

Geographical Constituencies:

Mr James TO, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr Alan LEONG, Mr Albert CHENG and Mrs Anson CHAN voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

Miss CHAN Yuen-han abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 22 were present, four were in favour of the amendment, 15 against it and three abstained; while among the Members returned by

geographical constituencies through direct elections, 17 were present, seven were in favour of the amendment, eight against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

CHAIRMAN (in Cantonese): Secretary for Home Affairs, you may move your amendment.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Chairman, I move that clause 6 be amended.

Proposed amendment

Clause 6 (see Annex III)

CHAIRMAN (in Cantonese): Before I put to you the question on the Secretary for Home Affairs' amendment, I wish to remind Members that if the Secretary's amendment is passed, Mr Alan LEONG may not move his amendments to clauses 6 and 7 and the schedule, Miss CHAN Yuen-han and Mr SIN Chung-kai may not move their amendments to clause 6.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr Vincent FANG, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU and Mr Albert CHENG voted for the amendment.

Ms Margaret NG, Mr James TO, Ms Emily LAU, Ms Audrey EU, Mr Alan LEONG, Dr Fernando CHEUNG and Mrs Anson CHAN voted against the amendment.

Miss CHAN Yuen-han, Mr WONG Kwok-hing, Mr CHIM Pui-chung, and Mr KWONG Chi-kin abstained.

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

THE CHAIRMAN announced that there were 38 Members present, 26 were in favour of the amendment, seven against it and four abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the amendment was carried.

CHAIRMAN (in Cantonese): As the Secretary for Home Affairs' amendment has been passed, Mr Alan LEONG, Miss CHAN Yuen-han and Mr SIN Chung-kai may not move their amendments, which are inconsistent with the decision already taken.

CLERK (in Cantonese): Clause 6 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 7 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 9.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, I move the amendments to clause 9(7), section (4), section 9(1) and sections 15(1) and 15(3) in section 15 of Schedule, the deletion of section 9(2) of Schedule and the addition of subsection (1A) to section 15 of Schedule. The amendments have been set out in the paper circularized to Members.

Clause 9 of the Bill provides for matters related to the establishment of committees. We intend to make technical amendments to the English text of clause 9(7). Section 4 of Schedule provides that the Chief Executive may by notice in writing remove a Board member (other than the Chief Executive Officer and public officer members) from office if he is satisfied that a member is unable or unfit to perform his functions due to permanent incapacity or other sufficient cause.

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

The proposed amendment to section 4 of Schedule will make it clear that any change in the status of a member based on which he was appointed for the original purpose would be considered as a sufficient cause for removal from office. The amendment to section 9 of Schedule proposes that where a matter relating to the terms and conditions of appointment or removal of the Chief Executive Officer is brought up for discussion or consideration in a board meeting, the Chief Executive Officer shall not take part in the deliberation of the Board and vote on any question concerning it.

As a consequential amendment, we will also delete section 9(2) of Schedule. The amendments also propose to add a new subsection under section 15 of Schedule to provide that the WKCDA Board may issue a guideline to set out the circumstances where a Board member is to be regarded as directly or indirectly interested in any contract or matter, for deciding whether he shall be required to disclose his interests. We will also propose a technical amendment to section 15(1) to spell out clearly that a Board member present at a Board meeting shall disclose his interests under specific circumstances. We will also

propose a technical amendment to sections 15(1) and 15(3) of Schedule to make the provisions more readily comprehensible. The amendments have been scrutinized by the Bills Committee. I implore Members to support these amendments.

Thank you, Deputy Chairman.

Proposed amendments

Clause 9 (see Annex III)

Schedule (see Annex III)

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 Home Affairs be passed. 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.

MR JAMES TO (in Cantonese): Deputy Chairman, I move further amendments to clause 9 and Schedule, in order to amend subclause (8) in that clause and the reference in the square brackets of Schedule, and to add subsections (3) and (4) to section 11 of Schedule.

Deputy Chairman, my amendment aims to provide that, except in certain specified circumstances, on principle, both the Board and committees should hold their meetings openly for greater transparency. Just now, we said that we were concerned about the WKCD, especially given that it involves such a huge amount of funding and shoulders the important mission of promoting cultural and arts development. In these circumstances, we believe that there is all the more reason for providing members of the public with more information and opening up the meetings.

Of course, we understand that the scope of businesses involved is extensive. In some circumstances, it may be necessary to maintain confidentiality. For example, when the Board or committees think that opening certain meetings to the public may lead to the premature release of information concerning some financial matters or investments and in some circumstances, disclosure may breach a certain law, violate the duty of confidentiality or other legal obligation; or the discussions are related to personnel matters, the assessment or approval of contracts or some sensitive commercial information, it will not be appropriate to hold public meetings. It is only in the aforesaid circumstances that the meetings will not be open to the public.

In the debate on the resumption of Second Reading, we already stated the reasons for proposing the amendments. It is because the policy-decisions are closely related to public concern for the WKCD and the development of arts and culture in Hong Kong, so members of the public should have the right to know. Moreover, under the major trend of opening up the Government, all information should also be made more and more accessible to the public and the operation of statutory bodies should also have greater transparency.

In fact, when the meetings of the two former Municipal Councils were related to cultural and arts facilities, they were open to the public. In the existing legislation, in fact, both the Town Planning Ordinance and the Construction Industry Council Ordinance have relevant provisions stating that all meetings shall be open to the public except in circumstances specified. In this regard, on the one hand, it is possible to have flexibility and the organization holding the meetings can hold its meetings in confidentiality if necessary; on the other hand, it is also possible to enhance transparency. In reality, it has the merit of striking a fine balance between these two aspects.

Our amendment is basically the same as the provision in section 9 of Schedule 3 to the Construction Industry Council Ordinance. Moreover, we have also added some more flexible wordings to allow the Board and its committees not to hold their meetings in public when the meetings involve the consideration of individual contracts or commercially sensitive information. Therefore, Deputy Chairman, we think that it is a major trend for all statutory bodies and major organizations.

Of course, earlier on, a point of contention is whether our proposal will deprive the Chief Executive of his power of appointment. I wonder if the Government will now maintain that our proposal will deprive the Chief Executive of his power of black-box operation. In fact, we precisely want to deprive him of his power of black-box operation. In fact, it is only in specified circumstances that he should maintain confidentiality. Otherwise, he should open the meetings to enable members of the public to participate more extensively.

In fact, let us first put aside the question of whether he should open up the meetings to the public. Frankly speaking, it is something we can only wish for if members of the public are willing to observe and pay attention to the meetings. Moreover, under the major trend in society nowadays, it is all the more necessary for the WKCDA to interact with people in society.

Honestly, sometimes, when showing guests meetings in the Legislative Council, most of them are open meetings and they are in fact rather boring. However, the point is, when important matters are involved, many people will perhaps be very concerned about these matters. Moreover, please bear in mind what we are now talking about. Even when a lot of very important and controversial issues are involved, so long as they do not belong to the exceptional circumstances mentioned by me in my amendment, the WKCDA will be compelled to hold its meetings in public. On second thoughts, if the Government thinks these several exceptional circumstances are still not enough, it can actually make amendments. It was after careful consideration that the Government set out the seven or eight exceptional circumstances in the Construction Industry Council Ordinance in a very comprehensive and detailed manner. I think that basically, these exceptional circumstances are already adequate.

Of course, if the Government wishes to make amendments, it can make further amendments by various means. Very simply, for example, it can add a lot of exceptional circumstances. However, the Government chose not to do so, rather, it ruled out everything across the board. As a result, on the whole, all meetings must be kept confidential. I think this practice is out of touch with the prevailing social trend, and the Government is walking farther and farther away from it.

Deputy Chairman, in proposing this amendment, I hope that the WKCDA can be mandated to open its meetings to the public except in specified circumstances. This is an appropriate approach the adoption of which will balance the interests of various parties.

Proposed amendments

Clause 9 (see Annex III)

Schedule (see Annex III)

DEPUTY CHAIRMAN (in Cantonese): Members may now debate the original clause and the amendments jointly.

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

MS EMILY LAU (in Cantonese): Deputy Chairman, I speak in support of Mr James TO's amendments.

We have discussed this subject for a long time in the Bills Committee. Mr James TO also said that recently several amendments were supported by the Administration, otherwise, they could not have been made. However, later on, I heard some criticisms against Secretary Dr Sarah LIAO for her support for the Construction Industry Council. I think that sometimes, Members may not necessarily support their approach, including their call on allowing taxi fare bargaining, but we think that this is very good.

In fact, Deputy Chairman, the major trend not just in Hong Kong but in all civilized societies is to let in the sunshine and open up the legislature to the public. Insofar as the proposal on the composition of the WKCDA Board is concerned, we have already lost. If the meetings are not open to the public, we also understand that in some circumstances, the discussions should be kept confidential. That is why Mr James TO has specified the exceptional circumstances. However, the Administration still thinks that it will not do and it should be left to the decision of those people. In that case, they may open their meetings only once a year. We have already said that if a lot of people really come to observe a meeting instead of merely one person showing up and then some people are invited to speak, this provision will exist in form only.

Therefore, I know that we cannot win. I think all the proposals relating to the composition will not be passed and the amendment relating to opening meetings to the public will not be passed either. How possibly can the other proposals relating to the fundamentals be passed? How can representatives of the public lend their support? How possibly can they support such a Bill? For this reason, I hope the Secretary can see the importance of opening up the meetings. Do not be afraid of letting in some sunshine. Do not be so scared of the mass media or members of the public coming in to listen to what you say. I think this is very important. Through this, both parties can strike a balance. When it comes to the discussion of sensitive issues, a meeting can be held in camera. However, after meeting in camera, once a decision has been made, an announcement has to be made on the decision made and on other matters as soon as possible.

In fact, Deputy Chairman, I trust that you are also aware of one of the arguments of the Administration for refusing to open up the meetings. The Administration said that once public meetings were held, appointed members would not speak. Conversely, appointed members would only speak if meetings were held in camera. Alternatively, in open meetings, they may say something different. Those people do not want to state their position in public. In that case, I must ask what sort of people you are appointing. Why can their comments not be known to the public? This is what the Administration likes to do. It just likes to appoint this kind of people who do not want to speak up in public and let people know their positions. Wow! How can this not make people think that cronyism is at work?

Therefore, the amendment specifies clearly what exceptional circumstances are acceptable. For example, some issues are more commercially or in some other ways sensitive and therefore cannot be discussed in public. However, other than these exceptional circumstances, the WKCDA should open their meetings to let members of the public get a clear idea of what is happening in it and get involved. Therefore, I support Mr James TO's amendment.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): Secretary for Home Affairs, do you wish to speak?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy Chairman, just as I said in spelling out the principles in the debate on the resumption of the Second Reading, the question of whether or not meetings of the committees under the WKCDA should be open to the public or not should be decided by the WKCDA in the light of the actual circumstances and should not be specified in the legislation.

In reality, even though Mr TO proposed to state explicitly that the meetings should be held in public, many conditions will still have to be added to specify in what circumstances they cannot be open to the public. Therefore, it is preferable for the WKCDA to decide this on its own.

I wish to reiterate that the nature of the WKCDA is different from other regulatory or consultative bodies. Committees of the WKCDA will have to deliberate and make decisions on many matters concerning the development and operation of the WKCD, which include not only the management of arts and cultural facilities, the organization of arts, cultural and entertainment programmes, but also the management of commercial facilities such as retail, catering and entertainment facilities. All these are commercially and market sensitive matters, the disclosure of which will make it very difficult for the WKCDA to operate effectively.

As the WKCD Board and committees have to deal with these matters as part of their daily business, most of their meetings cannot be held openly. If it is decided that certain meetings have to be held openly, anybody who has been in charge of any organization will know that both matters that can be made public and those that cannot be would often be dealt with in the same meeting. Therefore, if the WKCD wants to open some of its deliberated meetings and agenda while withholding some agenda items from the public, great difficulties will be encountered in actual operation.

We understand that this amendment seeks to give the operation of the WKCD greater transparency and accountability. However, actually, the provisions relating to the WKCD have already incorporated a number of requirements. I believe the WKCD will also take into full account the desire of Members and the public to know more about the operation of the WKCD as well as various policies, measures and decisions on promoting the development of the WKCD. However, regarding the imposition of a statutory requirement on the Board to open its meetings, we have conducted careful studies on the experience of many management organizations in Hong Kong and made reference to overseas management organizations. In sum, some problems have occurred and no one can be perfect. Generally speaking, Hong Kong has remarkable success in managing various public services through statutory bodies and has won recognition from various quarters. For example, when overseas visitors come to Hong Kong, they can see that the Hong Kong International Airport is well-managed. Its present operation has received widespread acclaim and the Hong Kong International Airport commands a high reputation in the international community.

Meetings of the Airport Authority are not held openly. The reason is obvious. A lot of operational information requiring confidentiality is involved. Similarly, if, in its management of cultural facilities, formulation of various contracts, employment of staff in various fields, the WKCD has to hold the meetings deliberating these matters openly, its efficiency will actually be affected. We

MR JAMES TO (in Cantonese): I wish to seek an elucidation.

DEPUTY CHAIRMAN (in Cantonese): Are you asking the Secretary to elucidate his remarks?

MR JAMES TO (in Cantonese): Yes.

DEPUTY CHAIRMAN (in Cantonese): Secretary, are you prepared to elucidate?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Yes.

DEPUTY CHAIRMAN (in Cantonese): Secretary, please sit down.

MR JAMES TO (in Cantonese): Chairman, I wish to seek an elucidation from the Secretary. Which Honourable colleague has asked that commercially-sensitive information be made public? No one has ever made such a request. The Secretary is really talking to thin air. He is attacking an unfounded assumption.

DEPUTY CHAIRMAN (in Cantonese): Secretary, please clarify.

SECRETARY FOR HOME AFFAIRS (in Cantonese): In my speech, I did not say that Mr James TO had requested that commercial and market information be made public. What I mean is that if we request the WKCDA and its Board to make public their meetings, we have to first of all understand that in managing their business, a lot of sensitive commercial and market information is involved. If these meetings are made public but the information has to be kept confidential at the same time, this will actually affect the operational efficiency. I am prepared to continue to elucidate further if I have not made this clear enough in my speech in this regard.

Therefore, all in all, I think that it is inappropriate to require in the legislation that the committees of the WKCDA hold their meetings openly. Therefore, the Government opposes Mr James TO's amendment and implore Members to vote against this amendment.

Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): Mr James TO, do you wish to speak again?

MR JAMES TO (in Cantonese): Deputy Chairman, I do not who drafted the Secretary's speech and if he has ever read those amendments himself. Clearly, my amendment says that if the Board or committees think that holding public meetings would likely result in the premature release of information on financial matters or investment, or in a disclosure of commercial and sensitive information, a meeting will not be open to the public. I have made this very clear.

The question is: If the Government considers it not advisable to open the meetings to the public on the ground that opening parts of it but not the others to the public will lead to operational difficulties, naturally, I will again rebut this argument. However, the Secretary is now saying that my amendment will lead to the disclosure and discussion of sensitive information. This will not happen. Why is the Secretary being so strange and why did he say so? I really find this very bizarre. If we are to debate with each other, the Secretary must show basic respect for the other part by learning what the other party is talking about.

Deputy Chairman, perhaps let me respond to the argument advanced by the Secretary just now. He said that if some matters could not be disclosed or were partially disclosed to the public in a meeting but not the other parts, this would lead to operational difficulties. Frankly speaking, I have also served as the member of some other authorities, such as the Land Development Corporation. Honestly, we would know the agenda beforehand, for example, concerning a certain project, and we had to discuss a certain aspect and focus on certain matters, such as the appointment and dismissal of employees, the appointment of directors, and so on. Similarly, it may be necessary for us to discuss the progress of certain matters, the annual plans, and so on. I must

point out that from the papers or to a reasonable extent, we would know whether a matter would involve the exceptions that I have specified. If it would, it was really possible for us to reasonably invoke these exceptional circumstances and refuse to open the meeting to the public. We cannot say that it will be difficult to set the agenda. We can only say that we must make greater efforts to consider how the relevant matter can be divided into two parts. Sometimes, we can even make the decisions immediately.

Therefore, there are two options. The first is to set an independent item on the agenda beforehand to open part of the meeting but not the other part to the public. Of course, if we find that the part open to the public may involve matters that must be kept confidential, in that event, in certain circumstances, even if the agenda item is open it is possible to keep part of it confidential on the spot. This is entirely feasible.

If we agree that this is a desirable principle that must be respected, so that the public can know more information about the WKCD and it can be transparent and open, naturally, we have to spend more efforts and time. We really have to exert more efforts but this cannot become an excuse or a ground. We cannot say on account of this that all instances must be decided by the WKCD because it is responsible for performing public duties and in view of the present state of the development in society put simply, in the past, there was not much talk of culture, conservation, and so on, and some authorities might think that these values did not have to be taken into consideration at all and might even think that everything must be kept in tight wraps.

Frankly speaking, recently, the Town Planning Board has seen several pieces of legislation passed and in the past, perhaps all matters had to be kept confidential but now, some of them must be open to public. In the past, on a lot of matters, for example, plans, it was only necessary to consult the relevant District Council members but now, it has to put up a sign, issue a notice and carry out detailed consultation, so it can be seen that society has changed.

The third point that I have to respond to is the argument advanced by some people, which Ms Emily LAU mentioned just now. These people think that should the meetings be open to the public, those people who are appointed members may feel that they are in a difficult situation and will just keep quiet and refuse to speak. Quite the contrary, I have a reason that I can share with Ms Emily LAU and other Members. I have come across situations that are the

exact opposite in four or five advisory committees or authorities. I do not understand why the Government would appoint people or members who would not speak or speak up or directors who would not speak. If the meetings were open to the public, they would be in trouble. Their attendance rates were alright because their attendance rates were often as high as 80% or 90%. However, they were often profoundly quiet, like the deep blue sea and did not utter even one word. Maybe they had a lot of opinions, but what were their opinions? All they knew was to give tacit approval and support to the proposals put forward by some executive departments. They are really remarkable. I had worked together with them for four years and they spoke only a word or two. However, please bear in mind that they had received many appointments from the Government and they were appointed to as many as a dozen or a score of committees. The Government may think that all this is very fine because they will only speak when they think that there is a major problem. If there is no problem, they will not speak lightly. The Government may think that their quality is very high.

Of course, after making the meetings open, we can let the public judge whether they are of high quality or whether it is those Members or members who speak up who are truly of high quality. I am worried that the Government may think since many officials also attend the meetings of these committees I am worried they may think that if these people are reticent, it will be terrible if the meetings are made open because the public will query why the Government has appointed people who do not speak. The public will think that these members do not have an input, will they not? There are indeed this kind of people, and a lot of them for that matter. I think the Secretary and the directors probably know about this because they have had discussions with these people before. Why do they always keep quiet? Of course, some people may think that as long as they support the Government, they only have to support it quietly and if they speak too much, it may be counter-productive. If they speak more, officials will have to do more and when they are back in their offices, they have to prepare papers and next time, they have to respond again.

Therefore, public meetings are a "monster detector". On the one hand, they can reflect that the remarks of some people are exactly the opposite of public opinions. And on the other, they can reflect the fact that some people got their posts without ever offering any advice and they only have to lend their silent support. Frankly speaking, even if one is a "royalist", one still has to voice opinions to make his "royal highness" perform better because one can be well justified even if one voices one's objection. However, these people never say anything. I really do not understand why these people can have their

appointments renewed two years after two years. After that, they could even join more and more committees.

Finally, I only wish to say that this clause was written with reference to the relevant provision for the existing Construction Industry Council. I can even say that here, the wording is even more loose. OK, one Honourable colleague even told me, "In writing this so loosely, in fact, there is hardly nothing that can be disclosed.". However, I have served as members of this kind of organizations, so I know that in principle, there are some matters that really cannot be disclosed.

Of course, with these exceptions to opening meetings to the public, it does not mean that the transparency will decrease. The organization concerned still has a major responsibility to disclose more information to the public in society nowadays, including matters of personnel appointment. Some people may say that in order to say whatever one likes in discussion, the meetings cannot be open to the public because some very sensitive matters of privacy may be involved. However, we cannot say that just as in the appointment of Under Secretaries and Political Assistants, nothing can be disclosed, even the procedure of appointment cannot be disclosed and all other things cannot be disclosed. This is not the spirit that we should adhere to. The spirit of the amendment only delineates some matters that have to be open to the public and that is all. In respect of coverage, I really cannot think of any situation to which the Secretary can raise objection. If he says that cases beyond the scope of exceptional circumstances should still be decided by the WKCDA, I cannot help but feel that this is not an appropriate balance. I do not mean that he is definitely wrong or that he will definitely think nothing can be disclosed. However, that is not an appropriate balance, which is not in line with the major social trend nowadays, nor can this keep abreast of the times. This is what I mean.

MS EMILY LAU (in Cantonese): Deputy Chairman, I think the response given by the Secretary just now is really a bit over the top.

Mr James TO was very right in saying that we had made it very clear and we also understand that some matters cannot be discussed openly. The Secretary should not have cited some reasons to support his claim that the discussion of some matters cannot be made public. He did not have to say this at all because all of us have agreed with this principle. However, the relevant

amendment does not stipulate that all commercial secrets have to be made public, nor does it seek to make public all the discussion on the good or bad points of individual art groups. No one has ever sought to do this. This aside, we also understand that it may not be necessary to open so many meetings to the public. However, when discussions on general policies and the way in which resources should be used are involved, why can the meetings not be made public? I hope the Secretary can accept this point and will stop advancing untenable grounds.

The reasons cited by the Secretary are really odd. Initially, he said that exceptional circumstances should not be spelt out in the legislation. In that case, what does he think should be done? He thinks that they should be decided by the Board and its committees in the light of actual circumstances. It seems that more leeway will be given, even though everyone says that not setting out all the exceptional circumstances in the legislation will be more troublesome. However, next, he went so far as to spend more than 10 minutes talking about why everything could not be disclosed. This could not but make me doubt that although he said it would be up to the WKCDA to decide, in fact, he has already decided for the WKCDA that no meeting will be open to the public. Originally, I thought that he just did not want to set everything down in the legislation but he would still actively encourage the WKCDA and other committees to decide to hold public meetings more frequently in the future. However, this was not the case. He then cited more than a dozen items, saying that all of them could not be made public. Deputy Chairman, if the future Chairman of the WKCDA looks at the speech delivered by the Secretary today, he would find to his dismay that in fact, "decide on their own" means that all meetings cannot be open to the public because doing so will affect effective operation. The Chairman and members of the WKCDA will not insist on opening up the meetings to the public either unless they want to get into trouble. This is for the sake of effective operation!

In view of this, has the Secretary conveyed an opposite message? If the authorities think that in principle, it is not advisable to hold meetings in public in some circumstances but they do not want to prescribe this, hoping that there can be some leeway but they still encourage people to speak up in the general meetings and to hold public meetings in some circumstances, I can still understand his logic. However, this is not the case. After talking appealingly, he then went on to say that no meeting could be open to the public and there was hardly anything that could be made public. Since he said that the WKCDA could decide on its own in the light of the situation, it is only reasonable that the

authorities should also think that in some situations, the meetings can still be open to the public, only it is not suitable to prescribe this. This should be his rationale.

However, this is not the reality at all. I believe the Secretary thinks that there is not any situation in which the meetings can be open to the public. However, is it the case that there is hardly any situation in which the meetings can be open to the public? Deputy Chairman, of course, this is not the case. At present, people are very concerned about culture and arts. When a certain committee convened a meeting, the scene was very grand. Mr Jasper TSANG knows that because the Committee is chaired by him. Next week, two meetings will be held and the scene will definitely be very grand and as many as 40 to 50 people will come. Nowadays, whenever issues relating to culture and arts are discussed, the scenes will always be very grand. For this reason, in future, when discussing the major policies of the WKCDA, I believe not only would many members of the public want to come to observe the meetings, they would even want to take part in them and speak. Therefore, I think the Secretary should also understand and accept that in respect of major policies and how resources should be allocated (I am not talking about sensitive issues such as the specifics of resource allocation), at least one or two meetings should be held each month to let other people speak up, instead of saying, as he did just now, that there is no circumstances in which it can decide on its own whether to open its meetings to the public.

Mr James TO was right in saying that the Administration is practising cronyism. Some of the people appointed by them can talk eloquently but they are in the minority. The rest of the people, including some in this Council, do not speak much. Apart from the vice-chairman of your esteemed party, Ms Selina CHOW, Mr Jasper TSANG and Mr James TIEN, most of them do not speak much to defend the Government. However, we do hope that there can be a free fight.

Let me tell you a very short story, Deputy Chairman. Those people called Justices of Peace (JP) are appointed to such posts. They have to make prison visits as part of their duty. In the past, an official JP would accompany a non-official JP on these visits. Subsequently, we voiced our strong objection, believing that it should also do for an official one to accompany a non-official one. Deputy Chairman, on one occasion, an official JP (an official JP is a senior official) told me that he had once made a prison visit with a non-official JP. In fact, the official JP was not trying to keep an eye on the non-official JP;

he was just accompanying him on the visit. However, what was the situation on that occasion? He said that the non-official JP did not utter even one word and he did not say anything after visiting the whole prison. Of course, they did not have any cake to eat and after drinking tea, they were about to go. It was only then that it occurred to the official JP he had to say something because if no one said anything, it would be terrible. There really is this sort of people, Deputy Chairman.

Sometimes, this is how the people picked by the Administration are like. They will not say a word. Of course, there are reasons for their accepting the appointment and there are reasons for the Administration to pick them. However, Mr TO was right in saying that after appointing those people, the meetings were open to the public this group of people will all only raise their hands to pass all the proposals. If the meetings are open, so that the public can see this state of affairs, is this not tantamount to bringing shame upon oneself and even disgrace to Hong Kong? Certainly, I hope it would not be like this but I also hope the Secretary will speak to state that he accepts that in some circumstances, even if the authorities think these circumstances are very limited, it will still be possible to open the meetings to the public and that a certain degree of freedom will still be given. However, the Secretary has refused to support this arrangement. If he proposes this arrangement, I will still find it acceptable. If he thinks that there are no circumstances in which it is worthwhile to open a meeting to the public, in the future, when the WKCDA takes a look at it, it would say that the Secretary has also said so. In that event, how would it open its meetings to the public?

For this reason, just now, the Secretary was just wasting its breath. He might as well say, "We find this unacceptable and all meetings cannot be open to the public because we think there are no circumstances in which they should be open to the public." This may still appear logical. If he does not say so, he has to say, "I will give you some freedom and let you decide. We think that in all circumstances, this WKCDA should consider holding public meetings." The aspirations of the public for cultural and arts development are completely beyond the imagination of the Administration. Members of the public want very much to go and listen to the discussions in this regard. Although the Administration does not want to stipulate this, it should still call on the future WKCDA to listen to public opinion on major issues several times a year and let them speak. I hope the Secretary can at least accept this point.

MR ALBERT CHAN (in Cantonese): Deputy Chairman, just now, I heard the Secretary say that it might be difficult to solve the problems relating to opening up meetings to the public. I wonder if I have got it right.

I am somewhat astonished because previously, it was two statutory bodies, namely, the Urban Council and the Regional Council, that were fully in charge of cultural and recreational facilities and related programmes. They could also formulate the policies within their jurisdictions. Of course, the responsibilities of the two Municipal Councils were not limited to culture and recreation but also covered environmental hygiene.

Often, meetings of the two Municipal Councils could be classified as both open and closed meetings. This was clearly stated on the agenda. The first part was open to the public. When the meeting came to the confidential part, a member would move a motion on entering the confidential stage and members of the public would be asked to leave. The process was simple and clear.

Moreover, there was a set of conventional rules to clearly define what documents were considered confidential. For example, meetings to pass a decision on which art groups to employ or the amount of money required, and so on, were classified as confidential meetings. Also, meetings to approve certain financial items, which might involve personnel matters or certain groups were also considered confidential. Other than that, the majority of documents relating to such things as policies, discussions or daily operations were, so far as I can remember, could also be open to the public. Therefore, I cannot see how the operation of the new WKCDA can be worse than that of the two former Municipal Councils.

In addition, I think many Members will also recall that when we first joined this Council in 1991, all meetings of the panels were held behind closed doors. After a meeting, Members would take turns to come out and make comments and it was a shambles as everyone would give different versions. After discussions, within a very short time, it was decided that all panel meetings would be open to the public and even the classification of papers were changed. Previously, the papers for the meetings were labelled clearly as confidential but they were slipped to the mass media in no time.

Therefore, the operational change did not affect the actual work of the Legislative Council. Rather, it enhanced the transparency of the Legislative Council and enabled members of the public to have a better idea of the actual

work of the Legislative Council. Moreover, it is absolutely healthy for members of the public to gain a clear understanding of the different views and differences among individual parties or Members in the debates on various issues. I wonder if it is due to the policy of affinity differentiation practised by the Government when discussing the establishment of the WKCDA initially that there was a strong demand for opening up the meetings, except when the meetings involve commercial secrets, information on business tender, information on individual remuneration or the appointment of art groups. These parts can be regarded as confidential and there is no difference of opinion. However, what the Secretary has said basically amounts to denying any need to open up the meetings. I am very disappointed with this.

In recent years, the administrative approach of the Government is moving closer towards black-box operation. This trend is very dangerous. We have been lobbying for amendments to the Town Planning Ordinance for over a decade and have compelled the Town Planning Board to open up some of its meetings. Therefore, insofar as today's request is concerned, in addition to refusing to amend the provision, the Secretary even adopts the attitude or stance of being inclined to discussing everything in a black box. This is totally against the public opinion and the social trend.

If the Government really practises strong governance, it should open up everything. The strong is not afraid of being open. When there are queries, let us discuss them in public. Only people who play small tricks in mimicry of cock-a-doodle-do, dog-like thieves or rodents afraid of the light like to declare themselves kings in a black box. Therefore, I urge the Government to pluck up its courage to allow members of the public to see all the truth under the sun, instead of playing such dirty tricks as the transfer of benefits or the sharing of political spoils in shady meetings.

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

DR FERNANDO CHEUNG (in Cantonese): In fact, opening the meetings to the public is only a basic rule of the game, a basic requirement. Just now, the Secretary said that the WKCDA might be involved in some commercial operation, so it was inevitable that some commercial interests would be involved. Mr James TO has made it very clear that this was not what he meant and he has

already made this very clear in his amendment. If the meetings of these major public organizations are not open to the public and these organizations can decide on their own, what will be the result? Deputy Chairman, the result is that the meetings will never be open to the public. Members can see that recently, the University of Hong Kong (HKU) wanted to introduce a Bill to the Legislative Council and although it was made clear in the paper and the Legislative Council as well as the Panel on Education have also passed a motion requesting that the Council of the HKU open their meetings to the public, the HKU management said that it could not comply even though they knew that this was well-intentioned, they would not do so. Of course, it will be like this. Without any rule to compel them to open the meetings to the public, why would they do so?

Deputy Chairman, I have never been appointed by the Government to any public organization, so I have never had this kind of experience. However, in the Hong Kong Polytechnic University, I was chosen by election to sit on its Council but the Council does not hold open meetings. What is the result of not holding open meetings? The result is that, as Mr James TO said, there are many members who have never spoken a word and who give their silent support. Most of them are just like this, all sitting there without expressing any opinion. Ever since I was elected to the Council, it feels very troublesome (*Laughter*) because I speak very often. A meeting that would otherwise take less than an hour would often take more than two hours. The core and ultimate power structures of these major public organizations are just like the Councils of universities. As in the case of the WKCDA under the WKCD, if some people are chosen as its members but in the end, all of them just behave like "quails", what is the point of establishing these so-called top-level power structures? Does one mean that they should simply be responsible for giving their stamp of approvals? If the papers for certain projects have been approved by the Chief Executive or the Secretary, these members will simply put their stamp of approval on them and that is it.

Many instances of this kind have regrettably happened in the Council of the Hong Kong Polytechnic University. If incidents of maladministration have occurred, resources will be used to cover them up. If mistakes are made, public funds will be used to offer compensation and settle the matter. Such is the consequence of not opening the meetings to the public. In addition, there are also many instances of conflicts of interest. Subsidiaries can be established in the university and the directors of these subsidiaries are also members of the

Council. When these subsidiaries make profits, members of the Council can also receive bonuses. Our vice-president is also concurrently the chief executive of a subsidiary, so he is also paid another amount of salary and can also receive bonuses. Subsequently, he forgot to declare his interests. The university took it upon itself to pay the money back to the subsidiary but the Chairman of the Board of Directors of the company is again the vice-president. However, he forgot to declare his interests. After this was reported by the press, we established an internal committee on our own, then told the outside world that he had only forgotten to declare his interests, so this did not matter and just give him a letter would do. This is the consequence of not holding open meetings. There are many instances of conflicts of interest in such organizations. In the Council, I was so infuriated that I could not stand it anymore. They said that everything was confidential and all documents had the stamp "confidential" on them and disclosure was not allowed. We are constantly reminded that as members of the Council, we cannot disclose anything in these documents, or else we will have violated the codes of the Council and can be dismissed. Deputy Chairman, this is the consequence of not holding open meetings.

Finally, since the meetings are not open to the public, as a member of the Council, as a matter of course, I requested privy to the information on past declarations of interest. What was the result? It turned out that members of the Council are not allowed to review the information on the declarations of interest made by these people to the Council. Why? Very simply, if I want access, everyone will have to vote first of all. Then, many of those silent and reticent members of the Council will all vote against allowing members of the Council access to the information submitted to the Council. The state of affairs can be as absurd as this and such is the consequence of not opening the meetings to the public. If meetings are not open to the public, the situation of "cronies sharing common interests" and cronyism will arise and those people are allowed to do whatever they please. No one will know what has been discussed at all. Even a university can go this far. What I am talking about is a university that costs billions of dollars of public funds. I have the honour of joining the Council through election, so I have gained some knowledge of the operation of these so-called public organizations and the highest levels of authority. If the meetings of these organizations are not open to the public, these cronies will defend their interests in whatever way they please.

(THE CHAIRMAN resumed the Chair)

In speaking here today, it is fortunate that I am still protected by the Legislative Council (Powers and Privileges) Ordinance, so I will not be sued. However, after leaving this legislature, I cannot say if I will be dismissed. Such is the consequence of not holding open meetings. Chairman, I just cannot understand why a public organization and a statutory framework in control of such a lot of resources can go so far as to refuse to open its meetings to the public. I so submit.

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

(Mr James TO raised his hand in indication)

CHAIRMAN (in Cantonese): Mr James TO, speaking for the third time.

MR JAMES TO (in Cantonese): Deputy Chairman, I wish to add one point that I left out just now.

If my memory is correct, the current open policy on document disclosure of the Government Records Service is that documents can be de-classified after 30 years. The Government Records Service has such a policy.

However, up to now, do these statutory bodies have anything like this policy to de-classify documents after 30 years? It seems this is not very clear. Therefore, in passing, I would like to point out that no matter whether this amendment is passed or not, for the purpose of using the information for the purpose of historical studies or other purposes, it is in fact necessary to stipulate clearly a code of practice on how many years will have to pass before confidential information can be made open to the public.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for Home Affairs, do you wish to speak again?

(The Secretary for Home Affairs shook his head to indicate that he did not wish to speak again)

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Dr Joseph LEE, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Jeffrey LAM and Mr WONG Ting-kwong voted against the amendments.

Ms LI Fung-ying and Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Mr James TO, Miss CHAN Yuen-han, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU and Mr Alan LEONG voted for the amendments.

Mr James TIEN, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendments.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 15 were present, four were in favour of the amendments, nine against them and two abstained; while among the Members returned by geographical constituencies through direct elections, 15 were present, six were in favour of the amendments and eight against them. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendments were negated.

MR JAMES TO (in Cantonese): Chairman, a point of order.

CHAIRMAN (in Cantonese): Please speak.

MR JAMES TO (in Cantonese): Chairman, there are only 30 Members in the Chamber, will this do?

CHAIRMAN (in Cantonese): The quorum is 30 Members.

MR JAMES TO (in Cantonese): Does it mean that just 30 Members will do?

CHAIRMAN (in Cantonese): Yes, just 30 Members will do.

CLERK (in Cantonese): Clause 9 and Schedule as amended.

CHAIRMAN (in Cantonese): As the Committee has earlier on passed the Secretary for Home Affairs' amendments, I now put the question to you and that is: That the clause and Schedule as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 8.

CHAIRMAN (in Cantonese): Originally, Mr LEE Wing-tat and the Secretary for Home Affairs have separately given notice to move amendments to clause 8. However, this morning, Mr LEE Wing-tat informed me of his decision to withdraw his proposed amendment.

Secretary for Home Affairs, you may move your amendment.

SECRETARY FOR HOME AFFAIRS (in Cantonese): I move the amendment to clause 8, which has been set out in the paper circularized to Members.

Clause 8 provides for matters related to the Audit Committee. Having considered the views expressed by the Bills Committee members, I propose to make certain amendments to clause 8, with a view to ensuring that the Audit Committee can discharge its duties more effectively.

Under clause 8(2)(a), I propose to add a new provision to enable the Audit Committee to deal with matters referred or assigned to it by the West Kowloon Cultural District Authority (WKCDA).

We also propose to add a new provision under clause 8(3) to provide that at least one member of the Audit Committee is to be a member who possesses such appropriate professional qualification or expertise in accounting or financial management.

Moreover, I propose to add a new provision to specify that the chairman of any other committee established under the Bill is not eligible for appointment as a member of the Audit Committee. This is to strike a reasonable balance between the need to ensure the independence of the Audit Committee and to have enough members familiar with the operation of the WKCDA available.

In clause 8(4), I propose to specify explicitly that members of the Audit Committee may comprise individuals who are Board members or those who are not Board members. Regarding finance, we also intend to propose that the WKCDA should report to the Legislative Council regularly on the spending of the upfront endowment. We would also request the WKCDA to conduct a mid-term review after completing the construction of the Phase I facilities or not

later than 2014 and 2015 as well as to report to the Legislative Council or its relevant committees the development of the Phase I facilities of the WKCD project and the development plan for the Phase II facilities.

The amendments to clause 8 are proposed after considering the views and suggestions of the Bills Committee. I implore Members to support their passage.

Thank you, Madam Chairman.

Proposed amendment

Clause 8 (see Annex III)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 8 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 17.

MR JAMES TO (in Cantonese): Chairman, I move that clause 17 be amended.

Chairman, my proposed amendment seeks to require the West Kowloon Cultural District Authority (WKCD) to consult the public extensively and regularly. The means of consultation "includes but are not limited to" opinion surveys, open forums, workshops, group discussions, and so on, and the results of consultation must be made public. Chairman, during the scrutiny of the Bill, Bills Committee members were very concerned about how the public could participate in the planning of the WKCD. Apart from electing the representatives by means of the election mechanism proposed by me, which has been negated, another way of public participation is for them to express their views and experience on such individual issues as the design of the WKCD by the committee, the design of individual venues, the management policy, the policy on leasing performance venues, the policy on charges and the policy on public enjoyment of open space.

In response to Members' concern, the Government proposed to add a standing consultation panel, the details of which will be further discussed and planned by the WKCD in future. According to the Administration's idea, the consultation panel will hold at least one annual meeting open to the public. Chairman, in response to our concern, the Government just said that a

consultation panel would be established and it seems that the idea of a consultation panel is to at least hold an open annual meeting for public engagement. In fact, this is absolutely inadequate.

What the public needs is regular and extensive consultation. Since the issues involved, including cultural and arts development, land planning, facilities, design and layout, are all very complicated and require detailed and in-depth discussions, one should not simply adopt the single mode of a so-called consultation report, as was the case in the past. The Administration has to adopt a more diversified, concrete, in-depth and multi-pronged approach of consultation by including opinion surveys, workshops and group discussions in order to enhance the process and contents of public consultation. Therefore, the Democratic Party has proposed the relevant amendment with a view to achieving the aim of being more interactive with members of the public.

Proposed amendment

Clause 17 (see Annex III)

CHAIRMAN (in Cantonese): Members may now debate the original clause and the amendment jointly.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for Home Affairs, do you wish to speak?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, clause 17 provides for matters related to public consultation. It provides that the WKCD shall, in relation to matters concerning the development or operation of arts and cultural facilities, related facilities, ancillary facilities and any other matters as the Authority considers fit, consult the public.

Mr James TO proposed to amend clause 17 to provide that the WKCD shall be required to consult the public regularly and extensively as well as to specify explicitly the consultation mechanism. I wish to point out that the development and operation of the WKCD involve a wide range of matters covering not only the building and operation of arts and cultural facilities, but also the planning and management of commercial facilities, public open space and other communal facilities. The stakeholders concerned will vary according to the matters requiring public consultation.

If we prescribe in the legislation a predetermined public consultation mechanism, which the WKCD should follow in conducting any public consultation, not only would it fail to fit all purposes, it will also fail to meet the demands of all stakeholders. Conversely, it is more appropriate for clause 17 to give the WKCD the flexibility to conduct public consultation in a manner most suitable to the actual circumstances at any time.

In fact, in order to enable the WKCD to effectively discharge its statutory duty under clause 17, we will move an amendment later to add a new clause 17A under which the WKCD is required to set up a regular public consultation mechanism to provide a useful platform for soliciting views and building consensus among experts, stakeholders and the general public, so that the WKCD can gather public opinion systematically at various stages of the development and operation of the WKCD. I believe that these provisions will be more effective than prescribing in the legislation a rigid requirement that the WKCD should adopt a predetermined public consultation mechanism. Therefore, I implore Members to vote against Mr James TO's amendment.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Mr James TO, do you wish to speak again?

MR JAMES TO (in Cantonese): Chairman, my response is very simple.

In the relevant provisions of the Bill, the Government now stipulates the establishment of a consultation panel. However, Chairman, what my amendment specifies is extensive and regular consultation and it is stated in the amendment that the means should "include but are not limited to". This is in

fact most fundamental and other means are not excluded. Chairman, this is just like a pot calling the kettle black. The requirement proposed by the Government is called a "reasonable balance" while the one proposed by me is described by the Administration as "it does not work and it is difficult".

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr James TO be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

CHAIRMAN (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 SIN Chung-kai, Mr WONG Kwok-hing, Dr Joseph LEE, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Daniel LAM and Mr WONG Ting-kwong voted against the amendment.

Ms LI Fung-ying and Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Mr Albert HO, Mr James TO, Miss CHAN Yuen-han, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU and Mr Alan LEONG voted for the amendment.

Mr James TIEN, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 18 were present, six were in favour of the amendment, 10 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 16 were present, seven were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 17 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 18.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, I move that clause 18 be amended as set out in the paper circularized to Members.

Clause 18 of the Bill provides for matters related to the preparation of the development plan. We plan to specify clearly in clause 18 that where the Chief Executive in Council refuses to approve a development plan submitted by the Town Planning Board, the WKCDA shall comply with clause 18 and prepare another development plan. Moreover, I also propose a technical amendment to the Chinese text of clause 18(2)(b).

The amendments to clause 18 are proposed after taking into account the views and suggestions of members of the Bills Committee. I implore Members to endorse and pass them. Thank you, Madam Chairman.

Proposed amendment

Clause 18 (see Annex III)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MISS CHAN YUEN-HAN (in Cantonese): I move that clause 18(3) be amended because I think that in the Bill, according to the Government's proposal, "In preparing a development plan, the Authority shall (a) consult the public at such time and in such manner as it considers appropriate". Chairman, last year, there were two major events that had impact on the general view of Hong Kong people on urban planning and they also led Hong Kong people to re-examine how urban planning should be like.

These two incidents were well-known, one of them being the Star Ferry Pier incident and the other being the Queen's Pier incident. At that time, the Government maintained that it had said long ago that the projects had to be carried out and it had already gone through the procedures, so why did you people still voice your opposition? In fact, that was indeed the case. The project had already reached the outline zoning plan stage and the details had been worked out. Moreover, a zoning plan had already been prepared, so how could it be changed? Having been through such difficulty, the Government has not drawn any lesson from the Star Ferry Pier incident and the Queen's Pier incident. Nor has it learnt any lesson from the fact that Hong Kong people are increasingly concerned about things around them, or the fact that there is a group of young people who want to establish their roots in Hong Kong, who wish to speak up and voice their views on planning issues, as well as making their voices heard in the planning process of the Government.

Chairman, why am I saying all this? Prof Patrick LAU is not present now. If he were here, this would be so much better because he would say that he supports me as he is the most professional person. Since that piece of land will still be vacant with nothing there before the proposed planning is carried out and at this stage, there is neither an outline zoning plan nor a zoning plan or anything like this, that means if we have any views, we can engage in an interactive process with the Government at this stage. Whenever the Government talks about Southeast Kowloon, it often says that it wants to tell us how successful it is in dealing with Southeast Kowloon. The development of the cruise terminal is going smoothly and this is still the case now. The work on the ridgeline is also going smoothly. All in all, the work relating to the south coastline has been very smooth. However, has the Government ever truly understood the essence of Southeast Kowloon, which the Government boasts as an example of success in consultation on planning?

Chairman, I have played a part in it. When the Hong Kong Government decided to move the former airport to the site of the present new airport, the Government presented the ideas on that piece of land to the district board to gauge public views. At that time, no details on planning were available at all and among the members who spoke, there was a good friend of mine. He proposed a range of views on the development of Southeast Kowloon. For example, he said that Kowloon Bay was very beautiful and in the past, it was most well-known for the cuttle-fish of Kowloon, that is, quality seafood. From Kowloon Bay, one could look all the way up to the Lion Rock and the present Kai Tak Approach Channel was originally called the Lung Chun River. Near the airport back then, a bridge over this river could be found. He said that he could see all these sceneries and that was more than a decade ago.

This good friend of mine was really foolhardy and he is my partner, Mr LAM Man-fai. He kept speaking in the board. At that time, we met a nice government official, Mr Raymond LEE, who was a commissioner responsible for the planning for Kowloon. He is now responsible for development of the New Territories. When the views were being expressed, he listened earnestly to what we, as a group of foolhardy people, said. I think this is very important. For this reason, we had a very high opinion of this official. He was involved in an interactive process with us, that is, when the Government had not yet had any major plan, we were already involved in an interactive process. At that time, the Government was listening to the views of another camp that proposed blowing up the runway in Kowloon. We said that the runway in Kowloon had a

history of over 80 years and bore witness to the construction and completion of the airport, by two families. It was a testimony to history. Professor SIU often asked why it should be blown up. At that time, some people did not understand this point, that is, those people who wished to exploit the land wanted to blow it up and then carry out reclamation. At that time, the Protection of the Harbour Ordinance had not yet been enacted. We as a group were rather foolhardy and got in touch with the fishermen fraternity. They hoped very much that after the airport was relocated, they could resume their inshore fishing operations near the coastline. At that time, we took members of the mass media on a cruise in a boat of these fishermen, setting off from Hung Hom to see if the entire runway deserved to be blown up. We also took all the people onto the Kai Tak Runway to look first hand at the effluent flowing out from the Kai Tak Approach Channel. The weather on that day was very good and it seemed the public were already involved in some kind of a movement. It was in the 1990s and Members can just think how early that was!

Still, we were concerned that our views could not arouse the attention of society, so next, we went together with some government officials to the highest point on the Lion Rock to have a panoramic view of Southeast Kowloon. If my memory is correct, the official at that time is now the Director of Architectural Services. He was very nice and went with us there to have a look at that piece of land. We came across several very good officials and they were all professionals. They had their professional standards in this area and they supported the views of this group of non-professionals.

Subsequently, we met another good official, who was the Director of Planning, Bosco. He retired last year. He was an interesting person. He saw that we had a lot of views. Initially, the Government said that it had received some 70 objections, including our views. For this reason, they organized a number of consultation meetings in their headquarters in North Point and each time, he would invite non-professionals like us to take part. At that time, our organization was called the League for the Greening of Kai Tak. I still remember the name at that time. The name of this organization was subsequently changed a number of times. He invited us as a group to attend the meetings there and we also came to know people from various fields, such as urban planners. They were very concerned about the issue of the skyline and I learnt a lot of things from them. I also met many architects and learnt about their vision on the development of Kowloon Bay.

In this process, I found that the Government had carried out one consultation after another very earnestly. It gave a lot of thought to a piece of totally undeveloped land and made changes constantly. At that time, I had already joined it. I joined the Legislative Council in about 1995 or 1996 and at that time, the Government submitted a development plan on Southeast Kowloon and it wanted to house 320 000 people there. Moreover, reclamation had to be carried out under the fine excuse of building a large park. At that time, we opposed this development and disagreed with this concept. We hoped that through the Lung Chung Bridge, which I mentioned just now and which is a historical monument in the airport, the area could be linked to the planning of the entire Wong Tai Sin. Chairman, at that time, it was not yet 2000 and the Government heard our views. For this reason, further changes were subsequently made and the area was no longer designated to accommodate over 300 000 people. If I remember it correctly, the plan was revised to accommodate some 100 000 to 200 000 people instead, so as to build an environmentally-friendly town in Kai Tak.

Members can see that all along, the Government has accepted our views and even some other developments nearby were involved. Since the road coming from Tseung Kwan O is the T2 and it is connected to the bay in the entire Southeast Kowloon, that is, the Kowloon Bay area, so the planning then also covered Lei Yue Mun and a carriageway with eight lanes was planned for Lei Yue Mun. Originally, this area did not fall within the planning for Southeast Kowloon but at that time, we and the Kwun Tong District Council objected to this plan together. In the end, the Government was amenable to our views and accepted public opinions.

Chairman, in saying all these, I have been a bit long-winded but in fact, I want to tell Honourable colleagues that this planning was actually carried out earlier than the consultation mentioned by Mr James TO. Just now, I have already expressed my support for Mr James TO. Even if the amendment moved by Mr James TO had been passed (of course, it has not been passed), my amendment should still be passed because my amendment is about the consultation finds we gave the Government after the Government had concluded all consultations and it was carried out earlier than the consultation to be carried out after the proposed planning had been published. I have to say once again that it has drawn on the experience of the Star Ferry Pier incident and the Queen's Pier incident. Maybe the Government wants to see less people of our type. In fact, it is no longer about us, but a group of young people. They are

pulling the heartstrings of Hong Kong people and the two battles over the Star Ferry Pier and the Queen's Pier made all of us feel very concerned about this city as well as our shorelines and ridgeline. These incidents have had a great impact on Hong Kong. More importantly, I have also told the Secretary for Home Affairs many times that it is very valuable for young people to be committed to Hong Kong and take part in its development. The Government often advocates patriotism or this and that kind of education. In fact, this is a live and desirable approach that can make all of us love our city ardently.

Therefore, Chairman, I think Members should agree that the Government ought to undertake the tasks proposed by me in clause 18(3)(a) in respect of a piece of undeveloped and disused land. What the provision says is "at such time and in such manner as it considers appropriate". During the scrutiny of the Bill, I asked what "at such time" and "in such manner" meant. I then said what I have said just now, that I did not agree with the approach adopted by the Government. Maybe the Government would say, "Miss Chan, we will definitely do what we have done with regard to Southeast Kowloon.". However, I will not believe this remark made by the Government. From my experience gained in this legislature in the course of more than a decade and since I have scrutinized the legislation relating to Chinese medicine and the Urban Renewal Authority before, problems have arisen even now. I hope the Government can take on board our advice in an interactive manner.

Chairman, what amendment have I proposed? Frankly speaking, my amendment is designed to do something more on the basis of the Government's provision. I also wish to share this with the Chairman. I propose that the Government must — I have to do a little search as there are a lot of papers on my desk — when carrying out the proposed planning, the Government must carry out a three-stage consultation. The first stage is on the initial planning concept, the second being the public hearings organized by experts and the third being the public consultation before finalizing the proposals. A definite timetable has to be published in advance for the consultation stage. In fact, this is what was done with regard to Southeast Kowloon. As the saying goes: "Officials come and go, but yamen (government offices in feudal China) are made of iron.". I will not be so lucky again as to meet officials with such professional beliefs again. If we find only subsequently that those officials are people identified by the Government arbitrarily to take those posts, what are we going to do?

Therefore, I think it is necessary to put it down in writing that the Government also accepts my stance. The Government said, "Miss Chan, it is right that consultations have to be carried out and we will do so. However, why is it necessary to write this into the law?" However, I think that the rationale is just the same as what I said in moving my amendment to clause 6 on the composition of the Board. Honestly, I do not have confidence that these things will be done in the future. Selina is not here now. She said yesterday that on introducing amendments, the Government has already adopted stance. This is a backward approach. However, does the Government mean that once a stance has been adopted, nothing can be overturned? It is still possible to overturn something even though one has adopted a certain stance. Even today, if the Government is amenable to public opinion and allows the Board to consist of the people we mentioned earlier, I think they should sum up the painful experience of the Star Ferry Pier incident and the Queen's Pier incident.

I have stressed time and again that if the Government really wants to deal with a phenomenon that has emerged in society, that is, at present, a group of young people have some views on urban development and want the Government to take them on board, including the views of seasoned people like us, the Government should accept my provisions. The Government said that my wording was not all right. We all know that Esther was really formidable and she said that the wording of my provisions was not all right. Therefore, I asked those professionals and some professors in The Chinese University of Hong Kong to look at the provisions closely for me, so that their contents can be brought in line with the relevant provisions. All of them said that there was no problem, that I could propose the provisions and the Government would probably accept them. I wonder if my friends are watching the television today, but I have already lost in the first part. I am also pessimistic about this part, but I still wish to persuade all Honourable colleagues.

All Honourable colleagues say that if we do not wish to see a repeat of the Star Ferry Pier incident and the Queen's Pier incident, we should not complain against other people anymore, saying that they have spoken up too late. If we all respect the civic attitude of our society — this is a spirit that the Government also supports, so it must support my amendment. However, the Government does not like to do so. I want to read out my idea. On "at such time and in such manner as it considers appropriate", what I say is, "In preparing a development plan, the Authority shall consult the public on the planning concept before the implementation of various detailed planning; hold hearings to bring

out professional opinion between the subparagraphs (i) and (iii) public consultation; consult the public once again before each detailed planning proposal is confirmed; publicize the specific timetable mentioned in paragraph (a) in advance" and the public consultation should be extensive, including representatives of public opinion, and from fields of arts and culture, academic and professionals, and so on. There should be another word to connect it to the government proposal.

Chairman, this is what I seek to amend, precisely because I think that the phrase "at such time and in such manner as it considers appropriate" is ambiguous. I have cast a vote of no confidence in this phrase and want to add some specific words. Frankly speaking, all this was proposed after we had heard the Government's views. The Government faulted my wording for being too similar to the mainland style but it was a professor in Hong Kong who provided the wording to me. He said that this kind of words as "public hearing" was also popular on the Mainland, yet the Government thinks that they are very similar to the mainland-style words. Now, I have also changed those words to accommodate the Government's views.

I hope very much that Honourable colleagues can lend me their support. The Government has already made clear that it will not support me. The Government agrees with the spirit advocated by me but does not support the contents proposed by me. I hope this amendment can be passed. Otherwise, when incidents similar to the Star Ferry Pier incident and the Queen's Pier incident arise in the planning for the WKCD, I do not know where we will be by then, but I would ask why Members voted in this way at that time. Chairman, I am not making a threat; I only want Members to accept these humble amendments of mine as we develop society together.

Thank you, Chairman.

Proposed amendment

Clause 18 (see Annex III)

CHAIRMAN (in Cantonese): Members may now debate the original clause and the amendment jointly.

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

MR WONG KWOK-HING (in Cantonese): I support Miss CHAN Yuen-han's amendment and I would also like to take this opportunity to call on Miss CHAN Yuen-han not to be too agitated. What she said came from the bottom of her heart and will be remembered in history, which will prove that Miss CHAN's proposals today are correct, no matter if her amendments are passed or not.

Regarding the two so-called "appropriate" elements mentioned by the Administration as pointed out by Miss CHAN, I think they are totally meaningless. What does "appropriate" mean? There is not any norm or standard. From the official perspective — Members all know that there are two mouths (口) in the Chinese character "官"(official) — the two "appropriate" elements can be interpreted in any way. It is therefore meaningless. In view of this, it will be truly appropriate if the relevant provisions are included in the legislation.

Moreover, Miss CHAN Yuen-han's amendment is actually nothing new. She is just proposing a proven practice. Miss CHAN Yuen-han's proposal is that the WKCDA should carry out consultation in three stages: Firstly, on the planning concept; secondly, hold hearings to bring out professional opinions; and lastly, carry out public consultation before the proposal is confirmed. In fact, if a consultation to collect public opinion is serious and solemn, rather than slipshod and perfunctory, particularly that on some important development plans, should follow this right track and be conducted according to these three stages. This should be the normal practice. Meanwhile, I must point out that this is also the practice in relation to major town planning or development planning in the past. Hence there are precedents and experience for our reference.

Just now, Miss CHAN Yuen-han has already commented in detail and cited many examples. Therefore, I do not have to repeat them here. Miss CHAN Yuen-han proposes in her amendment to include the three-stage consultation in the legislation and require the WKCDA to follow this arrangement. This point is the most important one and also the essence of the amendment. Without a specific requirement under the law, the authorities will do so only when it is "appropriate". However, it is up to the relevant party to interpret what is considered "appropriate" as there are no criteria to follow at all.

Therefore, if there is a specific requirement under the law, the future WKCDA will not be able to shirk the responsibility of conducting public consultation.

Madam Chairman, today, I have pointed out for the third time that in fact, Miss CHAN Yuen-han's specific proposals are only the essential elements under the overall concept of consensus politics or absorbing politics into the administration. In view of this, will the Government listen or adopt them? I think Miss CHAN Yuen-han has already fulfilled her duties as she has talked until she is exhausted and her voice hoarse. If the Government still refuses to listen, we cannot do anything about it. Once again, I advise Miss CHAN Yuen-han to take care of her own health. Thank you, Madam Chairman.

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

MR ALAN LEONG (in Cantonese): Chairman, I fully understand how the amendment proposed by Miss CHAN Yuen-han came about. This was because in the Subcommittee, the planning of the WKCD has all along been one of the major issues of concern to us. Of course, in order to do a good job in planning, the WKCDA must be humble enough to accept that this is a bottom-up planning process. The important issues include the links with the old districts and whether the WKCD will become a blackhole of culture and arts that will make the planning on culture and arts in Hong Kong lose its balance. The Phase III study report of the Subcommittee of this Council also touches on these issues.

In proposing the amendment today, the idea of Miss CHAN Yuen-han is in fact just to connect together all the matters that we have all along been concerned about. For this reason, in this regard, we have no difficulty in supporting Miss CHAN's amendment. Chairman, I think anyone concerned with the future of the WKCD will agree that the planning process may in fact be more important than the outcome of planning.

Today, in listening to the debates on various provisions, I could always hear one theme, that is, we have to do the best. However, who will decide what is the best? Will the Chief Executive decide this or will several persons decide this? I heard a Member say in his speech that what is supported by the majority may not necessarily be the best. This judgment may be correct but in what circumstances will this be correct? Namely, when someone thinks that his

judgment is better than that of the public. In fact, we can easily find this mentality among the senior officials. This is where the problem lies. At present, the WKCD is a "humanistic WKCD" as well as an WKCD belonging to Hong Kong people. If this is not just empty talk and lip-service but is really something that the Government wants to put into practice, the process is more important than anything else. Maybe after discussion by all the people or after going through the three steps as proposed by Miss CHAN in her amendment to clause 18(3), the outcome so obtained may be regarded by several industry experts who consider themselves top-notch as infeasible, neither fish nor fowl and an oddity. However, if, after a process of engagement of the majority public, all members of the public will embrace this oddity, the objective of a "humanistic WKCD" belonging to Hong Kong people will have been achieved.

Therefore, we should by no means overlook this point and think that what a few elites consider to be the best will be the best. This is because from the beginning to the end, the WKCD should not be such a project. For the resources committed to this project belong to Hong Kong people and they carry the expectations of Hong Kong people for culture and arts and even the expectation that Hong Kong can have breakthroughs, become the pioneer and embark on new endeavours in culture and arts and the creative industry. Therefore, the Civic Party totally concurs with Miss CHAN's proposals in this area.

The Chairman may be aware that during the scrutiny by the Bills Committee, I proposed some early amendments in respect of this point of public management. However, due to the fact that the Administration proposed clause 17A — we will examine it later — I withdrew my original amendment. I will talk about this later on. However, I can also let the Secretary be mentally prepared. In fact, when I withdrew my amendment concerning public consultation on and public participation in the planning for the WKCD, I had some expectation for the Secretary's speech to be delivered in the resumption of the Second Reading. As regards the details, I will talk about them in the examination of clause 17A. However, what I heard has fallen short of my expectation. I think that in due course the Secretary should perhaps give an account on why he talked so little about the system for public consultation in his speech on the resumption of Second Reading. Did he withhold something on which he had originally intended to give an explanation in the debate on the Second Reading at the last minute? Did he withhold something because there

were enough votes? I have no idea. However, I believe it is necessary for the Secretary to account for this in due course.

Concerning Miss CHAN's amendment to clause 18(3), of course, just like Miss CHAN, my conjecture is that the chance of her amendment being passed is very slim. However, Chairman, this legislature is a venue for debate, so anyhow, we should still voice what we consider to be the most desirable for Hong Kong. Even though nothing can be achieved, I still think that it should be put on the record and this is also important. This is because, just like Miss CHAN Yuen-han, I hold the conviction that our existing planning mechanism can no longer keep abreast of the times and has fallen behind the present trend and the development of civil society. As regards the WKCD, it is lagging even further behind the yearning of the public for participation in its planning.

Therefore, even though we may be casting pearls before swine today, I still believe that ultimately, those in power will realize that they have no alternative but to adopt the vision and the forward-looking blueprint painted by us today. Otherwise, even if those in power have power in their hands, it will be difficult to wield it. Chairman, in fact, in the debate on the Bill, I have pointed out repeatedly that if the officials in charge and in power adopted this attitude of pooling wisdom and public engagement when the arts and cultural district was initially conceived in 1996, I believe the Chairman would have been able to enjoy music or Cantonese opera in the WKCD by now.

The Civic Party supports the amendment proposed by Miss CHAN Yuen-han. Thank you, Chairman.

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

MRS SELINA CHOW (in Cantonese): Chairman, I would like to state clearly the Liberal Party's attitude towards Miss CHAN Yuen-han's amendment to clause 18. In fact, yesterday, in my speech on the resumption of the Second Reading, I also mentioned that insofar as planning is concerned, of course, we are not utterly opposed to a process of consultation. However, as for the three steps proposed by Miss CHAN, in our view, regarding the planning concept — Chairman, I am not referring to the Concept Plan — in fact, by now, a significant step has been taken in the report of the Consultative Committee and one can say that the tone has been set in respect of planning, which has already gone through

the statutory process. For example, in fact, decisions have been made in respect of the height, space and plot ratio. According to the present framework, it seems that the next step we have to take will be to work on the Concept Plan, that is, to prepare the Development Plan. Therefore, according to section 18(3)(a)(i) proposed by Miss CHAN Yuen-han, it seems that we should consult representatives of the community, the arts and cultural sector, the academia and the professionals on the planning concept anew, as prescribed by the provisions on consultation. However, in fact, the relevant process is over and now, we have to pool the results of the consultation together in the Consultative Committee, that is, the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District, so that we can have adequate time for discussion, both in the Subcommittee on WKCD and for the subsequent deliberations on the financial arrangement in the light of those views. By then — I am not sure if it will be tomorrow but it will be in the near future — we can then discuss matters relating to funding.

In fact, this project is founded on a planning concept agreed by us. What should be done next should be the preparation of the Development Plan. Therefore, if we have to carry out consultation on the planning concept all over again, I think we are just going backwards. The Liberal Party absolutely agrees that the Concept Plan certainly has to go through the process of public consultation when it is publicized. However, we are a bit worried about specifying these three steps. Our thinking may be somewhat different from that of Miss CHAN. Since this proposal may make us go backwards, we do not agree with such a provision that provides for such an arrangement. Thank you, Chairman.

(Miss CHAN Yuen-han raised her hand in indication)

CHAIRMAN (in Cantonese): Miss CHAN Yuen-han. I know that you wish to speak. However, do you know that you will have another chance to speak again later?

MISS CHAN YUEN-HAN (in Cantonese): I know, but I wish to speak on this amendment again now.

CHAIRMAN (in Cantonese): You can give your response now, but I hope you can be as brief as possible.

MISS CHAN YUEN-HAN (in Cantonese): Thank you, Chairman. I will just give a brief response.

First, we would often ask the Government how a piece of legislation would come about. Very often, the Government's reply was that it had been copied from somewhere else. If this piece of legislation is amended in such a way, the planning will be able to keep pace with the development of the entire civil society.

However, this is not the case now. I wish to tell Selina that if the Government has already gone to the stage of the Concept Plan as suggested by Selina, that is wrong. Clause 18 of the Bill is about "Preparation of development plans, and so on". The words used are "Preparation of development plans". If this has been completed, why is it necessary to set them down here?

Moreover, after hearing Selina's speech yesterday, to be on the safe side, this morning, I asked Prof Patrick LAU if he thought I was correct. I also said that shortly after joining the previous Legislative Council, I took lessons from an architect for nine months, in which I was taught the term "raw land". Prof Patrick LAU said that I did not have to use that term. Anyway, one can just call it undeveloped land because that place has not been developed yet.

Just now, I cited Southeast Kowloon as an example to show that the Government has taken a step forward, then it went backward again. It went forward and then backward again. What I want to say is that the Government should adopt an open attitude instead of doing what it is doing now. In the process of co-operation, I found that some officials were good. Of course, civil society has used another kind of power to force the Government to develop Southeast Kowloon. Therefore, on the basis of the foregoing three points, sorry, Selina, what you said cannot hold water. Thank you.

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

DR KWOK KA-KI (in Cantonese): Madam Chairman, I speak in support of Miss CHAN Yuen-han's amendment.

In fact, this is already very clear as I have said this numerous times. As Members all know, when the harbour was being destroyed by reclamation to obtain this piece of land, the Government told the public that this piece of land would become the biggest central park in the whole Kowloon. Members all remember this very well. It is on this basis that this piece of land came into being.

Now, if we review the case to see if the Government it so happens that Selina CHOW is not present. She said that the Government had already done everything it also carried out consultation and this is very clear. I wonder what she is clear about. What is clear? Basically, apart from the mention of a plot ratio for the buildings and the construction of a waterfront promenade in the future, nothing else has been said. Nothing else has been said at all, nor has any undertaking been made.

Madam Chairman, setting aside the issue of a cultural district, on the use of land, in fact, the Government is being very ambiguous and this is still the case even now. In fact, in talking about a three-step approach, Miss CHAN Yuen-han only wanted to make more room available for the public or members of the public who are concerned about this piece of land to play a part through statutory rights or the processes specified in the legislation. We are not convinced that the planning being carried out by the Government now can realize the original spirit and still less do we believe that the rather crude planning at present can guarantee that this piece of land will become land belonging to the public, as pledged when reclamation was carried out initially. This is what matters. The Government claimed that this piece of reclaimed land was not intended for its own benefit but in fact, so many factors have been added to the WKCD now, including the element of property development, the commercial element together with the so-called cultural and architectural element, so how much of this piece of land, including the waterfront stretch, will really remain for the enjoyment of the public? No one can answer this.

We also want to say that given such an important mission, if the public are allowed to participate, this certainly should be allowed. That is why we proposed in an earlier amendment that the WKCDA has to be monitored and that

there must be the voices of the public. For example, I do not know what channels are available for residents living in the environs of West Kowloon to voice their views on the entire mechanism or the WKCDA? Of course, there is none, none whatsoever.

Often, the Government will say that the Town Planning Ordinance already allows everyone to express their views but, Madam Chairman, we all know that when some matters were referred to the Town Planning Board (TPB), they had already got to the final stage. In fact, I do not want to talk about this but in fact, the TPB is the second black box. If Honourable colleagues have had meetings or voiced objections to the TPB, they know that basically, no matter what one says, it is the Chairman of the TPB is a government official and the Secretariat of the TPB is the Planning Department. The members of the TPB are not elected through a fair, impartial and transparent system. Concerning all these links, the Government is so brazen as to tell us unabashedly, "No problem, all your views have been taken on board in the process of planning, including the discussions of the TPB.". This is to tell lies blatantly.

Frankly speaking, I do not think that we can have a lot of safeguards even with this amendment proposed by Miss CHAN Yuen-han. As Members all know, although we request that the authorities conduct a consultation, in the end, it may not take on board the results of the consultation. However, these several steps or processes will state more clearly the sequence and procedure and this procedure can also show members of the public clearly — be it people living there, those who will use that place or those in other districts or in that district — they will have the opportunity to take part through a fair, impartial and open channel.

We hope that the approach taken will not be one in which the Government tells us that we can only eat it, swallow it or leave it when the act is already irreversible, half accomplished or even fully accomplished. However, even if we want to leave it, we still have to pay a price because contracts have already been signed. If we repudiate it, there is no telling how many billions of dollar in compensation we have to pay and ultimately, the money will come from taxpayers.

I think the Government has been pretty unwise in handling this matter. Moreover, it lacks persuasiveness. In fact, the Government already holds great power and throughout, regarding the entire WKCD, is there anything that is not

directly under the control of or planned by the Government? There is none, so it has asserted its power fully but leaving some room in fact, a truly people-oriented Government or organization does not have to be worried about consultation. This is also different from the principle that the Government has been telling us all along. The Government tells us that consultation is very important and any channel of consultation is also important. If the Government considers consultation channels important, these amendments only prescribe consultation in a clear and specific way, so why does the Government dispute this so much? Ultimately, this is about "those who obey me will thrive", and if something goes against the wish of the Government, no matter how reasonable it is, the Government will not agree with it.

However, we can now see this mechanism clearly. I think it will be very difficult for the future WKCD to realize its original goal. Reclamation has destroyed the harbour and ultimately, it will be difficult to return a piece of green land to the public. In the future, this cultural district will only be a patchwork of developments, and there will be a lot of property developments and retail facilities, hotels and offices that are apparently designed for the cultural district but which will in fact damage the whole thing. We have made it very clear that it is not the case that there is no land in Hong Kong. We have quite a lot of land for building offices, quite a lot of land for building hotels and quite a lot of land for building shopping malls. However, this piece of waterfront land is located at the forefront and also the most precious. Moreover, there is no other piece of land like it in Hong Kong, it is a rarity.

In fact, the Government has told a heap of lies here. At that time, when the Government applied to the Legislative Council for funding to carry out a reclamation project, it made one claim but today, it is making another. How can it ask us for our trust? If the Government does not even honour what it has said in the Legislative Council, how can we believe that it will follow public opinion when carrying out planning in the future? The biggest lie has been told.

Basically, this present piece of land has deviated completely from the original planning. This also makes us think that the present development of this cultural district is problematic because the developments within the district cannot be completely removed from land use. In the future, there will also be strong influence that will compel the WKCD to set aside the planning issue because the most important thing will still be commercial interests — money,

money, money. The aim of land sales is money because the Government wants to make money, so it has to recover this sum of money, does it not? Operating those commercial premises will also involve money. The Government also has strong justifications, that is, since the M+ or other initiatives have cost a lot of money and are a white elephant, there is of course strong justification to make money to recover the costs incurred by this white elephant.

In order to recover the costs of this white elephant, the Government can have even greater justification to open its door wide to do business and to use more land to make more money. With each decision made by the Government, our most precious asset belonging to the people — the land belonging to them — is being destroyed all the time. In fact, it is true that land does not belong to anyone and it surely does not belong to anyone among us, nor does it belong to any official or the Chairman of the Board of the WKCDA or anyone else. It belongs to all members of the Hong Kong public. However, with regard to the public, who truly possess the land — they are the ultimate beneficiary of this piece of land after planning — the Government can unblinkingly deprive them of their important role. It is not possible to shun the blame for taking such a course of action. I believe we have to put this on record today and the Government owes the public far too much.

Once again, I call on other Honourable colleagues to support this amendment, so as to enable the public to leave their marks on the planning of this piece of land, despoiled in all sorts of ways, in the only way available to them, by registering their voices and wishes.

I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, the Bill provides that the WKCDA shall consult the public in preparing the development plan. The aim is to ensure that the WKCDA can take into account views of various sectors when planning the WKCD, so as to make the development plan more refined. The Government will actively urge the

WKCD A to carry out extensive consultation with the public and the relevant sectors when preparing the development plan. These consultations must be humble and open-minded. In particular, due care must be given to the concern of the new generation in Hong Kong. The provisions should give the WKCD A adequate flexibility to carry out consultation in a manner appropriate to the actual situation.

Miss CHAN Yuen-han proposed a three-stage consultation, including the stage of planning concept, the stage of argument and detailed planning. It is worthwhile to make reference to this trilogy. I believe the WKCD A will also take it into careful consideration. However, it is inappropriate to write it down as a provision and to rigidly provide for the procedures and method of consultation through the enactment of legislation. The objective consequence of Miss CHAN Yuen-han's amendment will be to provide that the WKCD A can only adopt one method and procedure of consultation. This will make it impossible for the WKCD A to carry out consultation by any other means, including means better than the proposed three-stage consultation.

Moreover, the amendment does not clearly define what is called planning concept. Phrases like "hearings to bring out professional opinions", "proposal is confirmed", and so on, would involve legal interpretation and make it difficult to enforce the law. Therefore, in order to enable the WKCD A to consult the public effectively when carrying out planning, I implore Members to vote against Miss CHAN Yuen-han's amendment. Thank you, Madam Chairman.

MISS CHAN YUEN-HAN (in Cantonese): I would like to respond to the Secretary first. His point of view is the same as that of Ms Esther LEUNG, the Permanent Secretary (*sic*) in charge of the Bill. She pointed out that my spirit was okay and worth consideration, but it was very difficult to put it down as a legal provision. In fact, the wording I used initially was "evidence"(論證), but she pointed out that "evidence"(論證) was very much in the mainland style. I said it was okay.

My friends who are teaching in The Chinese University of Hong Kong tell me that all planning in the Mainland adopts these several stages, so as to reduce divergent views on certain issues. This is such a good method that they even suggested me adopting the planning in the Mainland — not the regional one but

the national one — they told me to copy it as there are such wordings. My friends asked: Is she telling us that our SAR Government is so awful, which is even more conservative than the Mainland? This is a severe criticism by the professionals of the Government lagging behind in listening to public views. She said that objectively, there might only be one kind of consultation, but she did not think so. If we want to have more my amendment is: "including representatives of public opinion, and from fields of arts and culture, academic and professionals", she can add the words "and so on" to make it become "..... professionals, and so on". There will be no problem at all. However, she was not willing to make such additions. I asked her to add these words time and again, but she simply refused to do so. I consider that she was just objecting for the sake of objection to me. After discovering the situation later, I took no interest to raise this again and did not bother her anymore.

Chairman, I therefore totally disagree with the Government. It simply does not want to conduct consultations during this process. As such, I think more people will query, in drawing up the planning, whether the Government is still being restricted by the major developers on certain issues. This is our point of view.

Chairman, I want to tell Honourable colleagues once again that apart from emphasizing the stages and methods of consultation, there is a very important question. Just as mentioned by Dr KWOK Ka-ki today, how the WKCD can be connected with its neighbourhood? Such connection involves other places of the Government. According to the general planning of the Government, if 40 hectares are designated, there will only be 40 hectares. As a lot of 300-odd hectares is designated in Southeast Kowloon, there will only be 300-odd hectares. Other places cannot be used. It is just similar to the case of Yue Man Square in Kwun Tong, other places cannot be used.

Can the Government expand its idea during this process to see how connection can be made with the old districts? Concerning these questions, the Deputy Director of the Planning Department reiterated time and again during the discussions in the Bills Committee: "Miss CHAN, you need not worry. We will follow the practice of Southeast Kowloon. There will be underground streets. Even in the recent excavation of the remains of the Long Chun Bridge

at the airport by the Kowloon District Planning Office, they have also invited us to give advice." They told me with action: "Miss CHAN, you need not worry."

I think if we ask these professionals, including public officers, they may also consider there is such a need, as it can help them to solve troubles in future and eliminate the emergence of difficulties similar to those in the Star Ferry Pier and Queen's Pier incidents. I think even the mid-level public officers will also have such feelings. Only that the Government refuses to take this step.

Chairman, no matter what the outcome is, I stress repeatedly that I have taken my dear colleagues' advice and will not feel agitated anymore. I just hope that Members can support my amendment. Your support is very important, as only this can address the stubbornness of the young people in Hong Kong on planning. Thank you, Chairman.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Miss CHAN Yuen-han be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Howard YOUNG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Howard YOUNG has claimed a division. The division bell will ring for one minute, after which the division will start.

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

CHAIRMAN (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, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong voted against the amendment.

Geographical Constituencies:

Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr Alan LEONG, Mr Ronny TONG and Mrs Anson CHAN voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 20 were present, seven were in favour of the amendment and 13 against it; while among the Members returned by geographical constituencies through direct elections, 19 were present, 11 were in favour of the amendment and seven against it. Since the question was not agreed by a majority of each of

the two groups of Members present, she therefore declared that the amendment was negated.

CLERK (in Cantonese): Clause 18 as amended.

CHAIRMAN (in Cantonese): As the amendment to clause 18 moved by the Secretary for Home Affairs has been passed earlier, I now put the question to you and that is: That the clause as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 30.

MR SIN CHUNG-KAI (in Cantonese): Chairman, I move that clause 30 be amended. My amendment is in fact to add "(3) The Secretary for Home Affairs shall cause the estimated revenue and expenditure received under subsection (1)(c)(i) to be laid on the table of the Legislative Council." in clause 30. Chairman, this is only a very humble amendment which aims to require the WKCD to submit to the Legislative Council annually the estimated revenue and expenditure of the next financial year — I stress that it will be laid before us only for taking a look rather than for approval — so as to enhance the transparency and accountability of the WKCD.

The WKCDA involves large-scale financial investment activities, extensive cultural and arts investment projects and the relevant promotional and educational activities, and among them, whether there is proper use of resources and transfer of benefits are matters of concern. The public should obtain more information on financial plans and work plans of the WKCDA, so as to facilitate effective monitoring. In order to enhance the alert mechanism of monitoring, one of the effective ways is to understand the estimated revenue and expenditure of the WKCDA of each financial year as soon as possible. The amendment proposed by the Democratic Party, that the WKCDA should cause its estimated revenue and expenditure to be laid on the table of the Legislative Council will not interfere too much in its daily management, and can allow chances for the public and the Legislative Council to understand its financial situation in advance and advise it in a timely manner.

The Democratic Party's amendment is made with reference to section 13 of the Securities and Futures Ordinance, which requires that the Financial Secretary shall cause the estimates approved by the Securities and Futures Commission to be laid on the table of the Legislative Council. The WKCDA will manage a huge capital, the upfront endowment alone I think we will deal with the funding application of \$21.6 billion tomorrow. And in future, it will also have certain investment returns, rentals from properties of the WKCDA as well as precious collections which are acquired and donated. At present, quite a number of statutory bodies are required to submit their annual reports, statements of accounts and the Auditor's reports to the Legislative Council. However, experience shows that although these reports, which are of a reporting nature, are effective for the protection of public interest, they are not as effective as the estimates.

The Hong Kong Tourism Board had been accused of squandering public money, and we can still clearly recall the public concerns so aroused. However, the incident was not revealed until repeated investigations had been conducted by the Audit Commission. Although the Government's amendment is to cause the Financial Secretary to submit to the Legislative Council annually an annual report, which includes a report on the activities of the WKCDA, the statement of accounts and the Auditor's report of the previous year — all these authorities or some statutory bodies are in fact also required to do so — and it is stated that the annual report shall specify how the activities of the WKCDA for that financial year relate to its objectives and functions. The Democratic Party still requires the WKCDA to submit to the Legislative Council the estimated revenue and expenditure of the next financial year, so as to enable the public to

know how the WKCDA is going to use public money and its estimation of revenue, and give advice accordingly, which will in turn enhance the effectiveness of the alert mechanism.

Honourable colleagues, this is only a very simple amendment. I believe each authority should have prepared its estimates. After the estimates are made, the Secretary for Home Affairs will cause them to be laid on the table of this Council, and the transparency and accountability will thus be enhanced. We have all along been discussing that the WKCDA should enhance its transparency and accountability, but what is the concrete measure to achieve this? Estimates are a very good tool.

I so submit.

Proposed amendment

Clause 30 (See Annex III)

CHAIRMAN (in Cantonese): Members may now debate the original clause and the amendment jointly.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for Home Affairs, do you wish to speak?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, Mr SIN Chung-kai has proposed to amend clause 30 of the Bill. It is about the estimated revenue and expenditure, which is also part of the business plan. The business plan of the WKCDA will involve the following sensitive issues, including facility management contracts and tendering arrangements for the project; concept of major events, such as various kinds of arts and cultural festivals; collection strategies; and the estimates of the Expo and the exhibition centre; strategies for holding events at different venues, outdoor performing

premises and public open space; and the costs and estimates for production of different events, service tendering, venue management, and so on. If the estimated revenues and expenditures of these items are disclosed, it will become very difficult for the WKCDA to operate effectively. As I mentioned earlier, the Bill has stipulated an appropriate mechanism to protect public interest, and it will establish a strict governance structure for the WKCDA, so as to strike a reasonable balance among high accountability, high transparency and effective operation. We are also prepared to stipulate arrangements to require the WKCDA to report regularly to the Legislative Council on the use of funds for development of the WKCD.

Moreover, I will propose new clause 30A later to require that the WKCDA should specify in the annual report its activities for that financial year and how they relate to its functions and objectives, activities of various committees and how the WKCDA should implement the activities and projects listed in the corporate plan and the business plan. Therefore, I implore Members to vote against Mr SIN Chung-kai's amendment. Thank you, Madam Chairman.

DR KWOK KA-KI (in Cantonese): Madam Chairman, I speak in support of Mr SIN Chung-kai's amendment. Mr SIN, I think we are really too humble. In fact, such a minor issue should not be written down in this amendment. Requesting the WKCDA to submit its estimates annually is indeed a very humble request. But the question is, after listening to the Secretary's speech, we simply know that the amendment will not be passed. However, Madam Chairman, the speech given by the Secretary is very similar to comments made by the Government during our discussion on the salaries of Under Secretaries and Political Assistants earlier, which were also about privacy, commercial secret, and so on. But these commercial secrets are precisely what the public want to know. As a matter of fact, we all know that the WKCD is a piece of "fat meat". Many consortia and developers have all along been casting their covetous eyes on it. Every one of them wants to eat this "fat meat". Many interest groups and those who have a chance to share the interests are also casting their covetous eyes on it. In fact, the WKCDA warrants improvement in quite a number of areas, including the appointment mechanism and the monitoring system.

Madam Chairman, if all our amendments proposed earlier had been passed, I might as well ask Mr SIN not to propose this amendment as we have

already a very good monitoring system in place. Regrettably, all the opinions put forth by us earlier are not taken on board. We neither have a transparent appointment system nor include stakeholders in the WKCDA through election to monitor the planning concerned. None of these amendments has been accepted. The Government even We hope to monitor the two most crucial parts of the WKCDA, that is, money and interests, through the Legislative Council, but the Government is not willing to accept this amendment. If someone has other intentions or wants to reap personal gains through these interrelated commercial operations and interests in future, isn't it a golden opportunity for him? If the Government wants to protect the public and their interests Mr SIN has proposed such a humble amendment. I consider that we will feel difficult as we have to discuss such a minor issue. But surprisingly, the Government has opposed it. This is an act of an irresponsible government. I am really disappointed and find it regrettable that the Government has all along opposed the amendments proposed by us for the public. With these remarks, I support the amendment. Thank you, Madam Chairman.

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

MR JAMES TO (in Cantonese): Chairman, I am so surprised after listening to the response given by the Secretary. Initially, I thought the Secretary would say that this amendment needs not be written into the law as according to another provision in the Bill (which is quite a special one), any committees of the Legislative Council may summon the WKCDA at any time to give explanation to and discuss with the Legislative Council on any issues. Compared with other authorities, it is quite rare. I suppose the Secretary will tell us in his response that if there is anything we want to know, we can simply invoke that provision to summon the WKCDA.

Surprisingly, the Secretary had no such thinking, saying that he opposed in principle requiring the WKCDA to disclose its estimates — please pay attention, it is the estimates, but not the fees or the sale strategy of any individual programmes. For instance, we may determine the rental per square foot, or if we want to attract some important tenants, we may offer them concessive rentals to boost the "patronage", or we may particularly want to invite the sale agency of arts articles of a certain overseas museum to achieve a special symbolic meaning. We are not talking about these things. We are not talking about this. The

estimates I mentioned are related to its revenue and expenditure. For example, we will estimate annually how many shopping arcades and entertainment facilities do we have? How much revenue will be generated in total and what is its distribution? We will even estimate the annual patronage of the arts and cultural facilities.

We should be aware that the WKCD is different from the Disneyland. The major mode of operation of an arts district is more similar to a public body and does not involve any keen competition with other similar competitors. Even so, such information will not be disclosed in detail through the part on revenue of the estimates.

Therefore, in case it is even not willing to disclose the estimates which only reflect a rough calculation, I can only arrive at one conclusion please remember, as for the WKCD, Miss Emily LAU has talked a lot about it earlier, if the Secretary even advises that it should not be disclosed in his speech today, how can we expect him to disclose anything to us? In other words, the Secretary has already got something in mind. For example, there will be some public officers in the WKCD, or even as anticipated by the general public that it will be chaired by the Chief Secretary for Administration. That is to say, as for how open and transparent the WKCD will be and how much information can be disclosed to the public, I am not optimistic at all. Originally, we also have some expectation, hoping that with the establishment of the WKCD, we can exert pressure on it through our panels, or discuss the reasons with it or voice the public expectations.

If the Secretary takes his stance rigidly and give the final word today, I can hardly imagine that the WKCD will disclose the information on its revenue, estimates or even a rough calculation to the public — I am not talking about the situation after its establishment but the situation before that. If no estimates can be submitted, the monitoring we are talking about, for example, Mr LEE Wing-tat has asked the Government to conduct a review in 2013 or 2014 at the very beginning, if the Government really seeks the funding of \$21.6 billion tomorrow, but says that the money cannot be used in phases upon our approval and will be used up during the first few years, then how can we monitor it if no figures on works, estimates, expenditure and revenue are available?

Therefore, I think on this issue, if the Secretary objects on these grounds, this is in fact a question of principle. I think this implies that the Government

considers that such information cannot be made available in principle, which cannot be disclosed to us in advance when drawing up the estimates. As such, how can we monitor, participate and put forward our views? I am really worried that this will definitely be a very much closed institution operating in a black box. Such an institution is in fact under the leadership of Donald TSANG's government. With the final say given by Secretary TSANG, its operation will become more and more enclosed in a black box.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, Mr SIN Chung-kai, do you wish to speak again?

MR SIN CHUNG-KAI (in Cantonese): My speech will be very concise. I consider that we have to be fair. This is in fact not only the style of the Secretary for Home Affairs. As for all authorities or other relevant statutory bodies under the Government, we have proposed time and again in the Legislative Council that we hope they will cause their estimates to be laid on the table of the Legislative Council.

However, the Government also has its consistent style, that everything should be in "black-box operation". None of them are willing to submit their estimates to the Legislative Council. I hope that we can do what we have to do. I do not expect any chances of our amendment passing. However, it does not imply that the Government should not enhance its transparency and accountability in future.

We advise the Government with good intent and it should also think about in future that it is not that easy to control an independent kingdom. The Government also needs some means to control them. I hope the Government can consider this point.

I so submit.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr SIN Chung-kai be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

CHAIRMAN (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, Mr SIN Chung-kai, Ms LI Fung-ying, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr Alan LEONG and Mrs Anson CHAN voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 18 were present, six were in favour of the amendment and 12 against it; while among the Members returned by geographical constituencies through direct elections, 19 were present, 11 were in favour of the amendment and seven against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 30 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 33.

CHAIRMAN (in Cantonese): Mr James TO and Mr SIN Chung-kai have separately given notice to move amendments to clause 33.

CHAIRMAN (in Cantonese): Members may now debate the original clause, and the amendments to that clause proposed by Mr James TO and Mr SIN Chung-kai jointly. I will now call upon Mr James TO to speak first, to be followed by Mr SIN Chung-kai; but no amendments are to be moved at this stage.

MR JAMES TO (in Cantonese): Chairman, I wish to raise a point of order. In fact, my amendment and Mr SIN Chung Kai's amendment are two amendments neither mutually exclusive nor contradictory. Chairman, what I have proposed is making bylaws relating to the regulation of deaccessioning of the collections, whilst that proposed by Mr SIN Chung-kai is about making bylaws for the public to enjoy the use of open space. Therefore, I wish to ask the Chairman whether the two amendments are in fact because I notice page 46 of the Script seems to mention that if any one of them is passed, the other one cannot be proposed. May I ask you to clarify this point, Chairman?

CHAIRMAN (in Cantonese): Mr James TO, part of your amendment to clause 33 is the same as Mr SIN Chung-kai's amendment, and we would be voting on the amendments moved by you and Mr SIN. If your amendment is passed, Mr SIN Chung-kai's amendment will be affected. This is my understanding. Do you wish to ask me whether we can vote on the amendments proposed by you and Mr SIN separately?

MR JAMES TO (in Cantonese): Chairman, I just want to make it clear whether my amendment has been included in Mr SIN Chung-kai's amendment. If so, I can withdraw my amendment, so that we need only vote on one amendment.

CHAIRMAN (in Cantonese): No. Your amendment consists of four parts. Among them, only one part is the same as Mr SIN Chung-kai's amendment, but not all the four parts are the same.

MR JAMES TO (in Cantonese): Chairman, I wonder if I can request to withdraw the part of my amendment which is the same as Mr SIN Chung-kai's amendment now?

CHAIRMAN (in Cantonese): You should make this request in advance rather than at this stage. After the amendments are submitted, the Secretariat has dispatched them to all Members. If you found any problems, you should have pointed them out to me. As you did not make such a request at that time, I assumed that both of you considered that there should be no problem.

MR JAMES TO (in Cantonese): Oh, Chairman, it does not matter. There is no problem as we can vote on them separately. It is just the same. But I think this will be simpler and more convenient.

Chairman, perhaps let me start. Chairman, the amendment proposed by me is in fact an addition of a requirement that the WKCDA should make some bylaws for regulation of the management of acquiring, selling, returning, keeping, accessioning, deaccessioning and disposal of its collections. Chairman, what are they all about? In fact, there are a lot of examples in overseas countries. In some institutions, no matter they are public we should say, even though it is a state-owned public or even a private museum, the collections are often very expensive and have a very high cultural and artistic value. Some collections may even be world-renowned masterpieces in the history of human civilization. In other words, the way in which they are managed and handled is different from that of commodities in general. Therefore, museums in some places have their own bylaws and regulations which are also included in the local laws. As for the sales, if some rules are stipulated, the museums concerned will not buy and sell stolen goods or things which right of property or ownership is suspicious. Due to their high value, acquiring, selling, returning and keeping of these collections should be regulated

by law, that is, they are subject to regulation by statutory provisions. Unlike an ordinary situation, if someone has a pencil, it does not matter for him to discard it after using up just half of it. This is the way to deal with ordinary articles. However, what we are discussing is that the collections in museums are articles of human civilization which should be strictly managed. Therefore, as the WKCD has a cultural organization, M+, which will focus on visual culture and create an interactive platform through establishing a museum and in other forms for promoting innovation and interactive exchanges between different sectors, it is really necessary for the WKCD to keep a lot of collections to attract the public and tourists to visit and appreciate them, with a view to enhancing public awareness of various kinds of visual culture.

As for how the museums manage their collections, this will, in fact, affect the confidence of the international and local communities in museums. We suggest that the WKCD should make reference to the ICOM Code of Ethics for Museums and legislation in other places and enact bylaws to handle these collections. For example, the ICOM Code of Ethics for Museums requires that collections in museums should have legal and valid title, and they should not be acquired through illegal channels. Museums should keep their collections properly, including live ones, and should also give consideration to conservation. Collections acquired through members or staff of the WKCD should be handled according to specific procedures. In acquiring, accessioning, transferring and disposing of its collections, the WKCD should duly handle the conflicts of interests involved, with signatures for confirmation. Apart from other contractual requirements, when disposing of collections, the WKCD should, first of all, consider transferring them to other museums, and the revenue so generated should also be used for collecting articles and collections.

In fact, there is also a similar statute in the Mainland, which is based on the Methods of Managing Collections in Museums promulgated by the Ministry of Culture of the People's Republic of China. It stipulates relevant requirements on procedures such as classification, custody, assurance, safe receipt, certification, accounting, indexing and disposal of collections for the staff to follow. The WKCD should take the international and mainland practices as reference to stipulate its code of practice and requirements, so as to adopt a more professional and effective mode of management to handle all its

collections. In this way, the confidence of people from the Mainland and overseas will be better assured, which will in turn attract more precious collections from all over the world, including those valuable private collections for exhibition and keeping in Hong Kong.

Chairman, I hope that after stipulating the requirements concerned, the collections in the museums of our WKCD will have a higher level of statutory procedures in place, with a view to inspiring the confidence of people in Hong Kong and all over the world. As mentioned by the Government, we hope that more Hong Kong, mainland and international collectors can be attracted to exhibit their collections in the museums of our WKCD in the form of donation or loan. If we have established standards which are of a higher level and in compliance with the international standards and manage our collections by way of legislation, I believe it can inspire confidence in the people.

MR SIN CHUNG-KAI (in Cantonese): Chairman, the amendment proposed by me is mainly to provide that the West Kowloon Cultural District Authority (WKCD), when making subsidiary legislation for the conduct of all persons within its premises, should have regard to the rights of all persons to enjoy the use of public open space reasonably.

The aim of the amendment is that we hope to regulate the Authority, particularly that it should act in a reasonable manner. In fact, the Government has empowered the WKCD in the Bill to make bylaws to regulate the conduct of all persons within any premises, buildings, structures, facilities or land (including public places) which it holds or manages. The provisions in the Bill are loosely constructed. The WKCD can make any restrictions, so that the public are not subject to any restrictions in principle in the use of facilities and public open space within the WKCD.

Given that the public are increasingly concerned about the freedom and right of enjoying the use of public open space, the Democratic Party has proposed this amendment to add a restriction in principle, which requires that the WKCD, in exercising the power of this bylaw, should have regard to the rights of all persons to enjoy the use of public open space reasonably, so as to safeguard public interest.

Chairman, this is a very simple amendment. I wish to make an appeal here, as we have prepared our amendment within a very tight schedule, please kindly support Mr James TO's amendment in the voting later as his amendment will certainly be negated. After that, I call on Members again to support my amendment.

I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, Mr SIN Chung-kai and Mr James TO have proposed amendments to clause 33 of the Bill, requiring that the WKCDA should make bylaws to regulate its collections. We agree to this amendment in principle and will urge the WKCDA, upon its establishment, to make bylaws to handle its collections according to the actual situation of various cultural and arts facilities.

However, as the cultural and arts facilities have yet been completed now, we have sought legal advice and considered that it would be very difficult to give an accurate definition of collections of the WKCDA in the law. Particularly, some individual venues (such as the M+) will be operated in an innovative concept. It may be operated under trust and have a specified status in the law. Therefore, in handling its collections, this factor should also be taken into consideration. For this reason, we should not stipulate such a requirement in the Bill at this stage. Rather, we should wait until the establishment of the WKCDA to make bylaws to handle its collections according to the actual situation of various cultural and arts facilities.

As for the inclusion of the right to enjoy the use of public open space in the law, there will be a very large public open space in the WKCD for public use. The Bill has also specified clearly that one of the objectives of the WKCDA in performing its functions is to provide an accessible open space within the cultural district for the public free of charge. This has already been stipulated in the

Bill. There is really no need for us to add other provisions for regulation, as this may give rise to unnecessary legal disputes.

Therefore, I implore Members to vote against the amendments proposed by Mr James TO and Mr SIN Chung-kai. Thank you, Madam Chairman.

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

(Mr James TO raised his hand in indication)

CHAIRMAN (in Cantonese): Mr James TO, you will have a chance to speak again later. Mr SIN Chung-kai, do you wish to speak again?

(Mr SIN Chung-kai shook his head to indicate that he did not wish to speak again)

MR JAMES TO (in Cantonese): Chairman, perhaps let me say a few words about the Secretary's response to Mr SIN Chung Kai first.

What the Secretary has said is in fact, first of all, there is already a lot of place; and secondly, if the amendment was included in the Bill, it might give rise to other problems and arouse unnecessary legal disputes. I hope the Secretary can understand what are the unnecessary legal disputes? What does he mean by "there is space available for reasonable enjoyment"? Is it a certainty? Chairman, if there were no disputes on the so-called public space in recent months, we might hardly imagine what would have happened. In theory, as the places are dedicated for public use, there should be no problem for there is this anticipation for public use. But why do we still have to stipulate it in the law, or even require the WKCDA to consider reasonably that the public should enjoy the use of those places? It appears to be a superfluous move. Clearly that is the case, but why do we still have to stipulate a universal truth in the law, right? They are in fact reasonable values.

However, recalling our disputes on the so-called public space a few months ago, we will find that the situation involved may have a number of possibilities. In reality, talking about private ownership of property, even it is stipulated in the lease that the public can enjoy the use of certain places

reasonably, some very unreasonable rules and even some deeds of mutual covenant or contracts with no regard to public enjoyment can also be made. As a matter of fact, it is very dangerous if we do not rely on legislation for protection.

Frankly speaking, we may sense a little bit of protection now as there is an outline plan for us to follow. But in reality, the usage of each piece of land, for instance, whether some facilities can really be opened for public enjoyment within a reasonable period of time according to our understanding, it will solely depend on the determination of the WKCDA. Honestly, as evident in our experience in losing so many amendments before, the Chief Executive can act in such a hegemonist manner and appoint all those people according to his loose principle, even saying that there are very reasonable justifications to make such appointments. The incumbent Chief Executive is so narrow-minded. Under his policy of affinity differentiation, who are those share his views? What different kinds of opinions do they have? How many of them will attach importance to the value of freedom for the public in Hong Kong to enjoy the use of those places reasonably?

Frankly, if we do not write it into the law that it shall have regard to the rights and purpose of the public to enjoy the open space reasonably, I can only say that public enjoyment will only be a gift, which is such an intangible and vague one. We even do not know how this gift will be given to us. If the WKCDA is willing to grant it, the public can have such enjoyment; otherwise, there is no way for us to enjoy it. As such, the WKCDA will have the greatest power of control. It is possible for such situation to occur. Of course, if anything goes wrong, the Legislative Council can invoke its power to pose questions endlessly, and forget about it if the problem is resolved later. However, the Legislative Council questions are questions only. The WKCDA will have its own way of management and administration and there is no way for the public to have such enjoyment. This is not a problem, neither. The worst scenario will only be similar to the case of community radio stations, that many people have no alternative but to resort to protest, demonstration and petition. As such, even those rich and powerful people who have the right to use the facilities reasonably may become restless as well, resulting in a lose-lose situation. That is the case. If the public are not allowed to use those places, they can do nothing about it. But they may think that they have also made contributions to the \$20-odd billion for developing those facilities, right?

Therefore, if it is stipulated in the law, a higher level of assurance will be achieved in reality, with the effect that the WKCD A can neither do whatever it wants, nor ignore public views in a deliberate manner. Such a practice is a product of the specific background of our community today. Frankly speaking, if you ask me whether we have to write it down in the law five or even 10 years ago, I think I will also object to it. However, under the existing atmosphere in the community, if I do not request its writing into the law, I will be doing the public a disservice, as I have no way to tell them firmly that they have the reasonable right of enjoyment, and only the WKCD A can enable such enjoyment.

Chairman, the Government has mentioned the collections in the first part of its reply. I agree with it in principle, but we still have to wait for individual museums to make their bylaws. Chairman, I consider it acceptable conceptually. However, if we do not write down the major framework and conceptual provisions, we cannot rest assured by legislation that the issue will certainly be handled in this way. This is my only response.

If it is written into the law, that is to say, the WKCD A and even its subsidiaries — no matter they are operated under subsidiaries or joint ventures, or even very complicated power of control is involved — we should have this concept in mind. However, if we do not write down the concept of the major framework, we will have no way to ensure that the public can certainly enjoy such rights. Similarly, if we follow what the Secretary has said today, we can only believe that the public may have such rights. But I can only make such an assumption. Under the current situation, shall we require that the public should have such enjoyment, or just allow that they may have such enjoyment? I will of course choose the latter to ensure their enjoyment, right?

As for the technical problems, the Secretary said that the case is not like that. Now we use the term "collections", but in future, collections may be on a long-term loan. I have not mentioned ownership. Ownership may not belong to it. Therefore, the term, collections, has in fact a wider and more specific meaning. It will have a wider coverage. Moreover, these collections can be acquired through various means, manners or in different natures, no matter by means of trust or on a long-term loan. I do not know what it will be in future. Sometimes, lawyers can think up a lot of possibilities. Nonetheless, only if they are directly or indirectly related to the management of collections of the WKCD A, they should be regulated by subsidiary legislation. I think the

WKEDA itself should have this general layout, otherwise, we can hardly guarantee that the bylaws mentioned by the Secretary will appear in the future.

Of course, no matter whether this amendment can be passed or not, if I can continue to serve as a Member, I will certainly keep on following up this issue to ensure that the Government will not be eat its words.

CHAIRMAN (in Cantonese): Mr James TO, you may move your amendment.

MR JAMES TO (in Cantonese): Chairman, I move that clause 33 be amended.

Proposed amendment

Clause 33 (See Annex III)

CHAIRMAN (in Cantonese): Before I put to you the question on Mr James TO's amendment, I wish to tell Members that if that amendment is passed, Mr SIN Chung-kai may not move his amendment to clause 33.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr James TO be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

CHAIRMAN (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, Mr SIN Chung-kai, Ms LI Fung-ying, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Prof Patrick LAU voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Ms Audrey EU, Mr Alan LEONG and Mrs Anson CHAN voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr CHEUNG Hok-ming voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 20 were present, six were in favour of the amendment and 14 against it; while among the Members returned by geographical constituencies through direct elections, 17 were present, nine were in favour of the amendment and seven against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai, you may move your amendment.

MR SIN CHUNG-KAI (in Cantonese): Chairman, I move that clause 33 be amended.

Proposed amendment

Clause 33 (See Annex III)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr SIN Chung-kai be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

CHAIRMAN (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, Mr SIN Chung-kai, Ms LI Fung-ying, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Prof Patrick LAU voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Ms Audrey EU, Mr Alan LEONG and Mrs Anson CHAN voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 21 were present, six were in favour of the amendment and 15 against it; while among the Members returned by geographical constituencies

through direct elections, 18 were present, nine were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 33 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 8A	Investment Committee
New clause 8B	Remuneration Committee
New clause 17A	Establishment of consultation panel
New clause 30A	Annual report.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, I move that new clauses 8A, 8B, 17A and 30A be added to the Bill, as set out in the paper circularized to Members.

New clause 8A aims to establish the Investment Committee to oversee the investment matters of the WKCDA, including the one-off upfront endowment to be approved by the Legislative Council. The Investment Committee will advise

the WKCDA Board on investment matters, and will monitor and oversee the management of these investments.

To give a certain degree of flexibility to the scope of responsibilities of the Investment Committee, the Investment Committee may also consider any matters relating to investment or finance that is referred or assigned to it by the Board for consideration, and deal with any other matters delegated to it by the WKCDA.

New clause 8A requires that the chairman and members of the Investment Committee should possess expertise and experience relevant to the work of the Committee.

New clause 8B seeks to establish the Remuneration Committee to advise the WKCDA on the terms and conditions of employment of its employees, and on matters relating to pension, remuneration, retirement benefits, and so on, made available to its employees, former employees or their dependants. Same as the Committee mentioned just now, it is stated in the amendment that the Remuneration Committee can deal with matters relating to the above which are referred or assigned to it by the Board, and matters delegated to it by the Board.

I propose to stipulate in the Bill that the WKCDA should establish the Investment Committee and the Remuneration Committee, so that it can have a healthier governance structure with more participation by the public and professionals.

Taking on board the views of the Bills Committee and making reference to other ways of consultation, we have proposed new clause 17A, under which the WKCDA is required to set up a consultation panel as a standing mechanism to collect public views. The WKCDA can consider nominations from different channels to ensure a broad and balanced composition of the consultation panel. Its meetings should be open to the public.

The consultation panel formed under new clause 17, which has improvements compared to the legislation governing many existing statutory bodies, has struck a reasonable balance between the need for a standing public consultative mechanism, and the need to ensure adequate flexibility for the WKCDA in deciding how best to consult the public. The proposed consultation panel, together with other provisions seeking to protect public interest in the Bill,

would also help to enhance the public accountability and transparency of the WKCDA's operation.

The Bill requires the WKCDA to submit to the Financial Secretary annually a report on its activities, the statement of accounts and the Auditor's report. We have proposed new clause 30A, which seeks to provide that all these three documents shall be included in the annual report. It is also a common practice of other statutory bodies. In response to members' views, the proposed amendment will also specify that the annual report must specify how the activities of the WKCDA for that financial year relate to its functions and objectives under clause 4; the activities of its committees; and how the WKCDA conducted or implemented the activities and projects as set out in the corporate plan and the business plan. All these requirements have enhanced the public accountability of the WKCDA.

All the above new clauses are proposed after taking into account the views and suggestions given by members of the Bills Committee. I implore Members to support the passage of this amendment.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new clauses read out just now be read the second time.

MS EMILY LAU (in Cantonese): Chairman, I believe the amendments proposed by the Secretary are free of problems in principle.

I personally have some concerns and views and wish to express them. Regarding the Investment Committee, I believe that its task should be very difficult, as we do something for no reasons and grant it a huge sum of money for operation. Even Joseph YAM has been working for us in great fright, for stock prices fluctuate at every moment. We now establish this committee for no reasons and allocate money to it. Frankly, Chairman, if there are substantial losses in future, it will of course be blamed harshly. I do not know whether it will make profits or not, and so, those working for it have to face great pressure in making every move. I just hope that there will not be any conflict of interests and bring us troubles without cause.

As Joseph YAM has all along been working for us in this regard, we just allow him to go on and provide funds upon his requests. However, the Administration is not working in this way. We do not know whether billions or even tens of billions of dollars have to be allocated to this Committee for operation. Under such circumstances, I do hope we can act with due care, as it will cause an uproar if anything goes wrong. I remember that several years ago, there was a consultation committee or so, which had made investments in Spain and suffered great losses. The person-in-charge was one of our numbers, formerly, a lady, Chairman. As a result, great controversies were aroused. If this Committee makes any mistakes, I wish you all good luck. I really do not know how many people will have to step down by that time.

The second point is about the Remuneration Committee, Chairman. I have also mentioned in my speech just now that I hope it can enhance the transparency and give us an account on every issue. However, nothing has been done now. They are free to make their own calculations, and at the same time, they have also commissioned consultants to advise them on such issues as how the remuneration should be determined. And the remuneration suggested by the consultants is always the highest. But very often, it is just fattening the top and thinning the bottom. As a result, they may have to come back to the Legislative Council to seek additional funds of \$5 million, \$6 million, \$7 million or even \$9 million. If we ask them why additional funds are required, they will simply say that it is a recommendation made by their consultants. In this way, we have to give all our money to them.

I hope the Secretary and the future Board can understand that the public does not quite agree with the approach of offering a remuneration higher than that in the market to attract talents. Of course, a monthly remuneration of tens of millions of dollars will be most welcomed by them. But is it necessary for us to do so? Therefore, I make my point here first that I do not quite agree to the suggestion put forth today, especially the approach of offering high remuneration to employ people from the same source. Those who are going to retire will join the Committee, which is in fact, a fat post. It is really disastrous.

Chairman, as for this consultation panel, we expect that it will hold open meetings. However, such meetings will only be held once a year, or, at least once a year. Frankly, if it really has the intention to receive views, why does it only hold meetings once a year and why should it be written down here? I think

it had better hold such meetings once a month. I am so worried that after the consultation panel has received our views, we might just as well give up any hope that the Board will listen to them again. Which Board members will sit on the consultation panel? The membership of this consultation panel is determined by the Board, Chairman. There is no prize for me even if I have made the right guess. But let me guess how many Board members will be prepared to come down from their high horses to attend these open meetings to receive our views? Although these meetings will only be held once a year, how many of them will be willing to attend? Therefore, I dare say this is just better than nothing.

The function of the consultation panel is to help the Board to collect public views. However, it is not mentioned that the Board should listen to the panel's views. In fact, I think this point is very important. After the panel has collected the views, the Board will just say thank you to it and leave these yearly collected views aside. I do not know the purpose for doing so. It can hardly bring its function into play.

As for membership, Chairman, it is determined by the Board. I hope the Board (in fact, what my hope is pointless, but I still wish to say a few words) will allow some organizations to make nominations for its consideration. The consultation panel should be diversified with a lot of different opinions. As the general public is not allowed to join the Board, we now take 400 steps backwards to establish a consultation panel. Therefore, I hope the consultation panel can show us that it will adopt more views and allow those who have opinions to make full representation in the panel.

I earnestly hope that this consultation panel can hold more meetings and have more members — even the Board members are not members of the consultation panel, they will also attend its meetings — to receive views and even take this opportunity to exchange views with the public on open occasions. I expect this consultation panel will hold open meetings to gather views before introducing each important policy. Thank you, Chairman.

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

MR ALAN LEONG (in Cantonese): Chairman, I wish to speak first on clause 17A in this part.

In fact, Chairman, prior to the introduction of clause 17A by the Administration, I already proposed an amendment at a meeting of the Bills Committee. The original amendment amends clause 17, stating that in order to perform its responsibilities of consulting the public, the WKCDA should establish a consultation panel and act according to Schedule B proposed by me at that time. Chairman, my Schedule B has in fact addressed a number of queries on clause 17A put forth by Miss Emily LAU just now. What are they all about? For example, I have stipulated: the consultation panel should meet at least once every three months to give advice to the WKCDA.

I have also proposed that the convenor of these consultative meetings should be the President of this Council, whilst the Chairman, Vice Chairman, Chief Executive Officer and all Board members of the WKCDA should attend all these meetings, submit reports and answer the questions raised. I have also stipulated the quorum of these consultative meetings, which should not be less than half of its members. Moreover, Chairman, resolutions made by the consultation panel will have no binding effect on the WKCDA. However, if the WKCDA does not accept any resolutions endorsed by the consultation panel, it should give an explanation in writing and put it on record.

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

Moreover, the original amendment has stated who can apply to be the deputations and individuals of the consultation panel under the WKCDA and that any person can lodge an application to the WKCDA in the name of deputations or individuals. The Chairman of the WKCDA should formulate an objective, open and transparent application mechanism. If any application is rejected, the Chairman of the WKCDA should submit to the consultation panel an explanation in writing. Moreover, all operation of the consultation panel, including the reasonable provision of resources, administrative support and, so on, should be maintained by the WKCDA.

After receiving my amendment, the Administration considered it not appropriate to specify such detailed arrangements. In fact, during our debate on the WKCD today, we have all along heard the Administration's opinion that it is not necessary to legislate for it. As I often put more emphasis on those major sections, to be fair, Deputy Chairman, I consider that clause 17A proposed by the Administration this time is an unprecedented move. Why is it so unprecedented? We have all along said that Hong Kong is already a very mature civil society, and thus, those in power and the ruler should never turn a deaf ear to its comments and opinions. If he really wants to position himself against the civil society, I think he will just bring troubles to himself. I believe that after the reunification, the SAR Government has learnt its lessons from painful experiences.

Nonetheless, I think this is the first time to put in black and white a system of public participation and engagement in the law. Therefore, when I received clause 17A from the Administration, I considered that if there was such an unprecedented move, I had no alternative but to believe it for the time being. I then withdrew my original amendment. Of course, I had suggested at that time: "Can the Secretary give us a more detailed account during the Second Reading debate on the reasons for considering it not necessary to write it into the law and what it will do in future?"

I have been very attentive just now, but it seems that the Secretary has not said a word on my original amendment which I mentioned to Members just now, that is, the detailed arrangements regarding the operation of the consultation panel. I do not know whether it means that the Secretary considers it pointless to mention them on second thought or he wants to back out of this. I of course hope that this is not the case. I have also informed him in advance earlier — I have not talked with him in person, but mentioned in my speech made here earlier that I hope he can give us an explanation in due course why he does not tell us the detailed arrangements regarding the operation of the consultation panel formed under clause 17A. However, when the Secretary spoke on the introduction of clause 17A again just now, he did not give us an account. However, he still has an opportunity later, but I do not know whether he will grasp it.

Deputy Chairman, I do consider that clause 17A is a breakthrough which we have to deal with seriously. About two years ago, I had a chance to be

invited to attend an experience sharing conference, which was hosted by the officer-in-charge of the planning of the Olympic city in London. Deputy Chairman, you may also know that London will organize the next Olympic Games in 2012 following Beijing. About two years ago, they had already started planning. In fact, what they did was to design a website for their Olympic city — Deputy Chairman, I do not know whether you have played a computer game called SimCity before. We can design the whole city with a computer, such as building bridges, roads, parks, green areas, and so on, whatever we like.

They had adopted this concept and put a model on the website. During the rush hours in the morning and in the evening every day, they would go to the five or six Underground stations within the Olympic city. Similar to the stalls put up by our elected Members on streets, they would set a folding table and two chairs, and asked those who were rushing to office and going home to help them design, and then adopted their views just like playing the SimCity. For example, Mr A indicates that he wants to have a jogging track here and a fountain beside the jogging track, and a concert hall as well. These three things: jogging track, fountain and concert hall will appear on the website. Mr A's photo will also be uploaded if he is willing to appear on the website, showing that this is the opinion put forth by Mr A.

There is an interactive platform on the website, and those who visit this website can express their views. If someone finds the jogging track undesirable or its colour is not good, after discussion, the planning experts will put forth their views one month later. For example, they will point out that Mr A's suggestion of building a jogging track is in fact not practical, especially it is not practicable to build it beside a fountain, as a fountain cannot be built there or there are some gas pipes underground which cannot be removed.

Deputy Chairman, I have cited this experience for I want to elaborate what real public engagement is. This is in fact completely different from public consultation. The characteristic of public engagement is that in the system, I know on which point I can express my opinions by certain means and I know how to get involved. After expressing my views, I will have an expectation, that is, even my opinions are rejected, I will know the reasons why they are rejected, and there will be a rational discussion as well. As for public consultation, to put it simply, those in charge can ignore us after listening to our views without taking any action afterwards. Regarding such kind of public

consultation, I believe the people of Hong Kong have seen many examples over the past few years. Of course, for the WKCD, I hope our consultation panel to be formed under clause 17A in future will not be that kind of public consultation which turns a deaf ear to us. Rather, I hope it is really a system for public engagement.

As for public engagement or allowing public participation in the planning of the WKCD, we have all along adhered to the same view from the Phase I Study Report to Phase III Study Report of the Subcommittee. It is because the WKCD is a project that belongs to the people of Hong Kong. The public money to be injected is the money contributed by the taxpayers in Hong Kong. Therefore, we do hope that this will eventually become not only a construction project in Hong Kong, but also a project of an international cultural and arts metropolis. And during the process, it can achieve cohesion among the people of Hong Kong and set a common goal for all of us. Such a process, in fact, will not be inferior to its results, but may even be more important.

Therefore, Deputy Chairman, I support clause 17A and at the same time, I have to reiterate that I hope, with the operation of this consultation panel, the picture and concept of public engagement described by me just now can really be achieved.

Of course, I have to make appeal to the Secretary once again to tell us more about whether he has thought of the detailed arrangements regarding the operation of this consultation panel when he has the chance to speak later, especially the six or seven stages I have just mentioned. In fact, this consultation panel has been highlighted in Phase II Study Report of the Subcommittee, which is also a proposal generated from the concept of Metropoli-30 of Bilbao in Spain which I hope the Administration can make reference to. I hope it will not be only a vase to give a touch of colour to public engagement. Rather, I hope it will really make a concrete breakthrough and give new ideas for forward-looking planning in Hong Kong in the coming days.

Thank you, Deputy Chairman.

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

MRS SELINA CHOW (in Cantonese): Deputy Chairman, I wish to speak on the stance of the Liberal Party on the several amendments which the Secretary has just explained to us.

First of all, concerning the Investment Committee, we are in fact very glad to see its establishment (which is just the opposite of Miss Emily LAU's stance). I recall that when the Government told us at the very beginning that a one-off upfront endowment of \$21.6 billion was required, we had expressed that we were a little worried about it. At that time, our party leader stated that we were worried about the one-off upfront endowment because the Committee would use this huge sum of money for many years. However, in case any investment losses were incurred, the amount would dwindle, which was very worrying. After considering this issue, the Government agreed to identify some people with expertise in this field. As such, we could at least have some sort of safeguard. I believe but is it 100% protection? These are things in future and no one dare say that there will be 100% protection. However, I consider the comments made by Miss Emily LAU just now seem to look at this issue fully from a negative perspective, saying that if these people were given the tasks, they should be responsible if anything goes wrong in future, and we have to find someone to do so and so. I think we will be in a terrible mess if we hold such mentality. We had better do nothing, as we will never make mistakes if we do nothing at all. I think this is not an attitude that we should take.

From this amendment, I notice it is stipulated clearly that "such number of other members, not being less than two, as the Board may determine who, in the opinion of the Board, possess such expertise or experience as would render them suitable for appointment". To a certain extent, this has taken some guidelines of listed companies as reference, that is, some jobs have to be taken up by those who possess such knowledge and capability. Therefore, I think that if this arrangement can be added to the Investment Committee, this is undeniably a kind of safeguard. Besides, these people need not be Board members and can be appointed from outside. Therefore, it will not impose any restrictions on members of the Investment Committee. The Liberal Party fully supports such an arrangement.

Moreover, as for the Remuneration Committee, we are of course very supportive of it because, as we all know, this is a project involving a huge sum of money, and so the public is very concerned about it. As some people can

concentrate on such work and a committee can be specially tasked to make more efforts in this regard, we will have a stronger sense of assurance.

Talking about the establishment of the consultation panel, I also agree with the direction put forth by Mr Alan LEONG just now, and I believe Members also agree with it. During our discussion, I dare say that not only the majority of the Members, but all of them agree that consultation is very important. In case the WKCD does not conduct any consultations or its consultation work is not sufficient to understand the public's opinions at large, it will be unwise of it to use the panel as a basis of policymaking. It is because if the WKCD wants to make the WKCD project a success, it should provide adequate chances for public participation. This is the so-called "buy-end", that is a good way to strive for recognition. As for a panel, I think if we Mr Alan LEONG may say that I am optimistic. From the perspective of his conspiracy theory — in a sense that this Authority may not want to listen to public views — I consider if it is not willing to listen to public views, it will only bring harms to itself, and this group of people are not so wise. Why? They, of course, hope that the cultural district will be a success and many of us will use the facilities in this district. But more importantly, they hope the public can visit the district more frequently, and thus, they will never turn a deaf ear to people and ignore their opinions. Therefore, I think basically, regarding the WKCD, it is beneficial for them to listen to more views.

Moreover, he has talked about the mechanism and I also find — I have in fact expressed my opinions to the Bureau at that time — whether we should establish one single committee or a number of committees. I have even given some consideration to this point, as I find that the Hong Kong Polytechnic University has a very good system. It has a lot of different organizations — I do not know whether they are called consultative committees or panels, or other names — and will establish different consultative framework for different subjects and departments. I consider that it is also important for the WKCD. Let us consider, regarding the WKCD, how many issues will there be for consultation? In fact, there will be a lot of issues for consultation. As for the performing arts, it is impossible to have one single committee to represent all the performing arts.

It is not our intention now to work like the previous Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District (the Consultative Committee), which only considers the issue of how this district can be developed and conduct consultations on how we develop

this district. Rather, we are now exploring continuously how to meet the users' needs in the hardware and software aspects. There are two levels of users: on the one hand, how the professionals will use these facilities; and on the other, how the public will use these facilities. We should listen to all opinions from these people.

Therefore, the most important point is whether the WKCDA really has the sincerity to listen. This is in fact very important. As for the mechanism itself, I of course consider that if it is simply a panel which holds meetings once a year, such practice is a kind of joke, isn't it? How many issues can it discuss? The legislation has provided a framework and also a chance to hold meetings once a year, but it does not mean that it should hold a meeting once a year. Moreover, I believe that there should be a lot of different kinds of small-scale meetings under this panel. It is a must to have such kind of meetings. Why? Because they can also channel different opinions to the panel. In fact, what are the functions of the panel? It should be responsible for consolidating different opinions to see if they can be listed and submitted to the WKCDA, which will in turn consider how they can be released to the public. Perhaps, there are also some other opinions which are not just for submission to the WKCDA, but may have to be referred to the Government for consideration.

Therefore, I consider that the most important thing is that we should now have such a mechanism in place. It is of course desirable to have this mechanism and I do not oppose to its existence. However, can we simply conclude that this problem has completely been resolved as we have such a mechanism in place? I consider it is definitely not the case. But I feel much relieved as it is necessary for the WKCDA to listen to these views. Therefore, it should adopt a quite complicated approach to achieve this. Perhaps, it may not consider it appropriate to hold meetings every three months. I say it may not be the case. Perhaps, some meetings should be held more frequently, whilst some others can be held less frequently. In fact, this is a very complicated problem as the Authority has a lot of consultation targets, with a lot of different combinations and different kinds of people involved. Therefore, if the WKCDA really has the determination to listen, discuss and adopt our views in an open manner, I also hope that it will create many different opportunities eventually. You say I do not know what the case was in the past, but I am sure during the discussions of the Consultation Committee, it had really conducted a lot of consultations for different areas and different groups frequently. And there were also a lot of consultations conducted at different places and on different occasions. I hope such a practice can be maintained.

However, from the very beginning till now, the crucial question is of course: Are we just doing something for cosmetic purposes? Or can those good opinions be adopted eventually?

I remember a talk delivered at the design centre the other day, when it was said that Toyota had received tens of hundreds of good ideas from the staff, no matter they were crucial or minor ones, and then consolidated and applied them in the spirit of the industry. I think regarding consultation, if we have the sincerity to listen to views and choose some good ideas, on the one hand, we can encourage those involved to put forward good ideas, and on the other, it can also bring benefits to the public, which is also very good to them. However, I think this issue should be left to the WKCDA to decide what to do upon its establishment, as it is responsible for this. I consider that if we make a decision in this Chamber now, or the Government requires rigidly how consultations should be conducted, I will find that there will be a lack of flexibility. I hope there will be numerous opportunities during the consultation process for people to put forward good ideas.

Deputy Chairman, I have voiced out these views on behalf of the Liberal Party to indicate that we welcome these amendments.

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

MR ALAN LEONG (in Cantonese): Deputy Chairman, as I have already talked about clause 17A, I just want to speak on clause 30A briefly.

Deputy Chairman, I think you should also know that the Government will seek approval of the Finance Committee for a one-off upfront endowment of \$21.6 billion tomorrow. I have mentioned at a meeting of the Public Works Subcommittee that according to the constitutional system in Hong Kong, the Legislative Council is the only organization that can really monitor the use of public money on behalf of the public. If we approve this endowment in one go without any effective alert mechanism, we can hardly give an account to the public. However, the Government replied that they would have annual reports. I think the annual report mentioned by the Government is clause 30A before us now.

Deputy Chairman, I wish to examine here the difference between the annual reports in clause 30A mentioned by the Secretary and continued monitoring by the Legislative Council on behalf of the public? Deputy Chairman, in clause 30A, the report which the Secretary is willing to submit, has no way to let us know, for example, the difference between the estimation made by the financial experts of the Legislative Council and that made by the financial experts of the Government. We cannot see the difference between the estimation made by the financial experts of the Government and the actual expenditure.

Deputy Chairman, the Secretary has stipulated in clause 30A(2) that the annual report should include the following items and among them, I believe only item (c) is related to figures, which includes the statement of accounts prepared under section 25(2) for that financial year. Apart from this, there is of course item (d), which includes the report submitted under section 26(3)(b) for that financial year. Moreover, item (e) includes information on how the Authority, during the financial year, conducted or implemented the activities and projects set out (i) in the corporate plan sent in the previous financial year to the Secretary for Home Affairs under section 29(1); and (ii) in the business plan sent in the previous financial year to the Secretary for Home Affairs under section 30(1).

Deputy Chairman, from this point of view, item (e) is basically irrelevant to our monitoring role. What is the difference in the actual expenditures estimated by the Government's GHK, that is, the experts of the Government? How far is it different from the estimates? We can see nothing, and the closest ones are items (c) and (d) only. However, those mentioned in items (c) and (d) are — excuse me for describing them as — kind of "perfunctory" reports. In fact, the Legislative Council has received a lot of such reports. We receive these reports every year, no matter the annual report of the Urban Renewal Authority or that of the Hospital Authority (HA).

As for the HA, particularly when examining the health care financing, we are more eager to know whether these huge amounts are hedged against each other, and what is the breakdown of these figures? However, we cannot get any information as the report submitted is "perfunctory" in nature.

Deputy Chairman, if the public officers rely on this kind of report mentioned in clause 30A to seek this endowment tomorrow, thinking that this

will allay our concerns and worries, I am afraid they can hardly achieve their objective. If Members find that clause 30A is already sufficient, I am of course willing to listen to their justifications.

As we are discussing clause 30A today, I consider that it should be stated clearly here as from the Government's point of view, the Bill and the endowment are, after all, in the same basket, which should be passed in the Second and Third Readings before funds can be sought from the Finance Committee. Therefore, I also consider it appropriate to discuss this issue at this moment.

I very much hope that the Secretary can hear this. If he really wants the Legislative Council to be willing to grant the one-off upfront endowment — \$21.6 billion is in fact a very huge sum of money, Deputy Chairman, and the funding this time is unprecedented of course, this figure is not cited by me, but by the Secretary for Financial Services and the Treasury in his response to a Legislative Council paper. He said that such request was made for the first time. It is the first time that it refers not only to the amount, but also the Government's attitude in seeking funds, that it is one-off and it will not seek additional funds from the Legislative Council in future. If this is the case, we will be even more frightened.

We have spent more than one day of our meeting time to discuss this Bill, showing that this Council attaches great importance to it. We hope that when the Bill is really implemented, it will not start off in a high note but ending up in a mess. Seven or eight years later, when all lots are sold and the real estate development is so magnificent that there are hotels, commercial buildings and residential buildings, if we then find that the calculation of \$21.6 billion is wrong, will the project be halted suddenly? Will there be only hardware without any software? These are our worries. It is because the Government seeks funds this time on the ground that it is only one-off and no additional funds will be required.

Deputy Chairman, you may also be aware that some members of the Subcommittee have queried whether \$21.6 billion is an underestimate? Is it necessary to increase the endowment? Permanent Secretary Carrie YAU said that it was not necessary to do so. The endowment this time was sufficient and the Government would not seek additional funds.

The question now is that it is really not so sufficient to rely solely on the information given in the annual report mentioned in clause 30A. Deputy Chairman, I of course hope that the Secretary can listen to our views in this Council. In the speech delivered by Miss CHOY So-yuk yesterday, I heard that she had also expressed the same concern, considering it insufficient to have the submission of annual reports only — I believe Miss CHOY was also thinking of the arrangement mentioned in clause 30A at that time. However, perhaps there was no time for her to elaborate in detail what additional information she wanted to obtain apart from the report mentioned in clause 30A.

However, at the meeting of the Public Works Subcommittee, I had explained in detail what information I wanted to obtain, and these information should all be expressed in one single manner, and that is, the difference and deviation between the estimates and the actual expenditures, including the overall figure and the breakdown of each project, or the difference between the estimates and the actual expenditures of outsourced services.

In this regard, I do not want to waste time to make a detailed elaboration again, as it has been clearly stated in the minutes of the meeting of the Public Works Subcommittee. In the remaining time, I hope the Secretary can give more consideration to how best we can play our role to monitor and strictly control the use of public money, and help us to perform our constitutional duty, and can put forth a more comprehensive proposal when seeking funds from the Finance Committee.

Thank you, Deputy Chairman.

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

MR LEE WING-TAT (in Cantonese): Deputy Chairman, regarding the annual report and the financial problem, I think the Bills Committee has debated them several times. I have to reiterate that the Democratic Party agrees to the establishment of a system of high transparency and comprehensive reporting as well as the provision of financial information.

We have proposed to conduct a comprehensive financial review in 2014 and it seems that the Government has accepted our view on this point. However, I also agree with Mr Alan LEONG that a lot of incidents may occur and they may even occur every year. As a huge amount of a one-off upfront

endowment has to be sought for the WKCDA, the Secretary and the Government should, in fact, consider a more comprehensive manner of reporting as well. Of course, for the time being, we do not know how the Administration will submit the annual report, but some of them are very simple. However, from the perspective of annual reports, if the Government can negotiate with the WKCDA on how best to disclose such information and submit it to the Legislative Council as far as possible, I believe Honourable colleagues of the next term will be very concerned about this problem and will keep a close eye on it. I think the first principle is that as the WKCDA has already been established, it should adopt a prudent approach of financial management, so as to ensure that it can get things done by using this endowment within budget.

The second point is, as I have mentioned it several times in the Bills Committee, I think the Government should not indicate so early that it has the intention to inject unlimited funds into the WKCDA, otherwise, it will not use its funds prudently.

The third point is that if there is a difference between the estimates and the actual expenditures of operation we always cite an example: if a university student does not have enough money during his studies, he has to quit for one year and try to earn money, and continue his studies after getting some money. Therefore, the Administration may also request the WKCDA to identify adequate financial sources in operation. We should bear in mind that the WKCDA itself is not only a cultural building, a lot of catering and retailing businesses are also operating in it.

Of course, I know the reporting system should be as strict and detailed as possible. I have also indicated in the Bills Committee that I really do not hope they will play a micro-management role. But I think the Government should know how to clarify the representative role played by the Legislative Council for the public and that played by the WKCDA, so as to enable us to keep a close eye on it. As far as this point is concerned, I hope the Government, after endorsing its ideas, can also consider in detail the opinions put forth by colleagues. Within the framework of our opinions, the Government will endeavour to achieve the most comprehensive and open disclosure and give a full account to the Legislative Council.

Thank you, Deputy Chairman.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): If not, I now call upon the Secretary for Home Affairs to speak again, but it so happened that he has just left this Chamber.

(The staff could not find the Secretary for Home Affairs)

DEPUTY CHAIRMAN (in Cantonese): Honourable colleagues, the meeting is now suspended.

4.34 pm

Meeting suspended.

4.36 pm

Committee then resumed.

(THE CHAIRMAN resumed the Chair)

CHAIRMAN (in Cantonese): A quorum is not present now. Clerk, please ring the bell.

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

CHAIRMAN (in Cantonese): Secretary for Home Affairs, do you wish to speak?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Chairman, I do not need to speak.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clauses 8A, 8B, 17A and 30A.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Chairman, I move that the new clauses read out just now be added to the Bill.

Proposed additions

New clause 8A (See Annex III)

New clause 8B (See Annex III)

New clause 17A (See Annex III)

New clause 30A (See Annex III)

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

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new clauses read out just now be added to the Bill.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you as stated. 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.

DEPUTY CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

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

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

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

West Kowloon Cultural District Authority Bill

has passed through Committee stage 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 West Kowloon Cultural District Authority Bill be read the Third time and do pass.

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.

(Members raised their hands)

Ms Emily LAU rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes, after which the division will begin.

(THE PRESIDENT resumed the Chair)

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.

Dr Raymond HO, Mr LEE Cheuk-yan, Dr David LI, Mr Fred LI, Dr LUI Ming-wah, Ms Margaret NG, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Ms

Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Alan LEONG, Dr Fernando CHEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU, Mr KWONG Chi-kin, Miss TAM Heung-man and Mrs Anson CHAN voted for the motion.

Ms Emily LAU and Dr KWOK Ka-ki voted against the motion.

Mr CHIM Pui-chung abstained.

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

THE PRESIDENT announced that there were 45 Members present, 41 were in favour of the motion, two against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): West Kowloon Cultural District Authority Bill.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the second reading debate on the Supplementary Appropriation (2007-2008) Bill.

SUPPLEMENTARY APPROPRIATION (2007-2008) BILL

Resumption of debate on Second Reading which was moved on 11 June 2008

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 Supplementary Appropriation (2007-2008) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Supplementary Appropriation (2007-2008) Bill.

Council went into Committee.

Committee Stage

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

SUPPLEMENTARY APPROPRIATION (2007-2008) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Supplementary Appropriation (2007-2008) Bill.

CLERK (in Cantonese): Clauses 1 and 2.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

SUPPLEMENTARY APPROPRIATION (2007-2008) BILL

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

Supplementary Appropriation (2007-2008) Bill

has passed through Committee stage without amendment. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Supplementary Appropriation (2007-2008) Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Supplementary Appropriation (2007-2008) Bill.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2008 and the Poisons List (Amendment) (No. 3) Regulation 2008.

I now call upon the Secretary for Food and Health to speak and move his motion.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Madam President, I move that the motion under my name, as printed on the Agenda, be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and monitoring system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

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

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or veterinary surgeon.

Arising from an application for registration of two pharmaceutical products, the Pharmacy and Poisons Board proposes to add maraviroc and its salts, as well as nilotinib and its salts, to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations. Pharmaceutical products containing these two substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

We propose that these amendment regulations take immediate effect upon gazettal on 4 July this year to allow early control and sale of the relevant medicine.

The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under the Pharmacy and Poisons Ordinance to regulate pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side-effects of the medicines concerned.

With these remarks, Deputy President, I beg to move.

The Secretary for Food and Health moved the following motion:

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 6 June 2008, be approved –

- (a) the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2008; and
- (b) the Poisons List (Amendment) (No. 3) Regulation 2008."

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

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 and that is: That the motion moved by the Secretary for Food and Health be passed. 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.

DEPUTY PRESIDENT (in Cantonese): Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008.

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

(The Secretary for the Environment was not in the Chamber)

DEPUTY PRESIDENT (in Cantonese): As the Secretary for the Environment is not in the Chamber now, I declare the meeting suspended.

4.50 pm

Meeting suspended.

4.51 pm

Council then resumed.

DEPUTY PRESIDENT (in Cantonese): A quorum is not present. Clerk, please ring the bell.

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

DEPUTY PRESIDENT (in Cantonese): Now we have a quorum. Secretary for the Environment please speak.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, I move that the motion standing in my name on the Agenda to amend the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 (the Amendment Regulation) be passed.

First of all, I would like to thank the Subcommittee led by the Ms Audrey EU for their work and efforts in examining the Amendment Regulation as well as for the many useful and constructive suggestions in respect of the Trade Effluent Surcharge (TES) scheme.

In late 2007, the Government completed an effluent survey to collect the most up-to-date information on the strength of effluents covered by the TES scheme in order to update the chemical oxygen demand (COD) values and the TES basic rates applicable to the specified trades. The Government drew up the Amendment Regulation on the basis of the findings of the survey, with the aim of

revising the COD values on the basis of the survey findings so as to uphold the "polluter pays" principle and revise the basic rates of TES in accordance with the policy objective of achieving full recovery of attributable operating costs.

The original intent of bringing in TES was to give trades producing more effluents with an economic incentive to encourage the various operators to improve their effluents. From the "polluter pays" perspective, there is no justification for taxpayers or sewage charge payers to foot the bill of the extra cost incurred in treating stronger effluents. The Legislative Council has repeatedly urged the Government to implement the "polluter pays" principle. We are glad that the Subcommittee on examining the Amendment Regulation also restated their support for the principle.

Deputy President, although the quality of effluents of certain trades is still not the most satisfactory, we are glad to note that in the case of 18 trades, the quality of effluents has seen marked improvement when compared with what it was at the time when the scheme was first introduced. Three trades have even been removed from the TES scheme because the strength of their effluents is no longer higher than that of average effluent. This shows that the TES scheme, based on the "polluter pays" principle, does provide an appropriate financial incentive to operators of various trades to beef up their pollution control measures to reduce the discharge of strong effluents.

Deputy President, the motion I move today is the Government's positive and proactive response to the views of the Subcommittee. The motion seeks to make three amendments to the Amendment Regulation.

In the first place, the Government, in the course of scrutiny of the Amendment Regulation, listened to the views of certain trade operators regarding the application mechanism for the reassessment of TES rates. Members of the Subcommittee should also be thanked for their many valuable ideas on this matter.

The establishment of a reassessment mechanism for TES rates is out of a wish to encourage operators of different trades to beef up pollution control measures so as to reduce pollution by these trades as well as the burden on the sewage services, and, at the same time, reduce operators' spending on TES. The reassessment mechanism is compatible with the "polluter pays" principle. There is no conflict.

After listening to the views of those deputations mainly representing operators of the restaurant trade, the Government understands that among individual operators is the worry that there is the possibility that the cut in TES during the validity period cannot offset the laboratory cost for conducting the reassessment. This, consequently, holds them back. Of course, this is not what we would like to see. We too understand that the full implementation of the "polluter pays" principle has to be coupled with the provision of sufficient and effective incentives to encourage trade operators to make improvement to the quality of effluents discharged.

To reduce the cost for applying for reassessment, in 2007 we extended from one year to two years the validity period of a reassessed TES rate. In 2007, we also revised the relevant Technical Memorandum to reduce the number of sampling days from three to two for small operators. With these measures, the cost incurred for reassessment has been cut by two thirds on a yearly basis.

After careful consideration, we have accepted the views of the Subcommittee and proposed an amendment to further extend the validity of reassessed TES rates, making it three years instead of the current two years. On account of this change, reassessed TES rates still valid before 1 August, when the Amendment Regulation is to take effect, will automatically be extended for one year. We believe this will help to reduce the cost of the reassessment. What is more, in this way, we can encourage more operators of various trades to get cuts in TES and make joint efforts to further reduce pollution by improving pollution control measures as well as by applying for reassessment.

After this amendment, we will still keep in touch with all stakeholders and members of the trades through different channels to work out a way to further streamline the reassessment procedures of TES rates so as to make things easier for members of the trades.

Deputy President, the purpose of the second amendment proposed in the motion is to bring in an amendment so that during the brief transitional period following the commencement of the Amendment Regulation, the Drainage Authority is authorized to apportion, on a pro rata basis, TES payable for billing periods going beyond the commencement date. This amendment is made in response to the wish of Subcommittee members that the TES rates be applicable to all trades as soon as possible.

Deputy President, the third amendment of the motion targets cases applying for reassessment of TES rates. According to the current proposal of the Government, in the case of trade operators applying for reassessment of TES, their TES rates after reassessment may be increased in two stages once the Amendment Regulation takes effect in accordance with the goal of achieving full recovery of operating cost. In other words, assuming a trade operator's COD values remain unchanged, an application for renewal of reassessed TES rate on or after 1 August 2008 may subject him to an increased rate because of the need to achieve 100% cost recovery.

When examining the Amendment Regulation, the Subcommittee — especially Mr Tommy CHEUNG — made a lot of comments on the matter. The Government did listen carefully. If Members support the amendments in the motion proposed by us, then for cases concerning reassessment of TES, there is going to be a grace period of one year before the adoption, in two stages, of the new rates designed to achieve full recovery of cost. This amendment is in line with the "polluter pays" principle, and also has regard for the financial goal of achieving full recovery of attributable operating costs. At the same time, operators of the various trades can have more time to get accustomed to the upward revision of TES rates. Meanwhile, the Government will step up communication with members of the trades during the said period. I am happy that Mr Tommy CHEUNG has agreed to work with the Government to further step up communication with members of the trades and help them make further improvement to the quality of effluents discharged.

Deputy President, I believe all Members will agree that the protection of our natural environment depends on the active involvement of every citizen and every trade. "Polluter pays" is one of the methods that can effectively mobilize the entire population to reduce pollution. When examining the Amendment Regulation, members of the Subcommittee stated again and again their support for the Government to adopt the said principle in its sewage services, and backed the policy objective that the Government should achieve full recovery of attributable operating costs. We are very pleased with this. It is my firm belief that adherence to these two key principles can help further reduce the cost of sewage services, thus lessening the damage to the natural environment.

Deputy President, I would like to take this opportunity to reiterate that the introduction of the Sewage Services Charging Scheme is purely out of a wish to make members of the public as well as trade operators more aware of the burden

on the sewage treatment system and the natural environment attributable to the effluents discharged by them by bringing in the "polluter pays" charging mode. It is not our intention to increase revenue for the Government through the TES scheme. The Administration will pay close attention to the connection between the income from the TES scheme and the cost of the entire sewage services. Should we notice that, structurally speaking, income from the TES scheme exceeds the relevant costs, we will definitely carry out review immediately to revise the TES rates. We will continue to keep in close touch with members of the trades.

With these remarks, Deputy President, I call upon the Members to support my motion. Thank you.

The Secretary for the Environment moved the following motion:

"RESOLVED that the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008, published in the Gazette as Legal Notice No. 106 of 2008 and laid on the table of the Legislative Council on 14 May 2008, be amended –

(a) by repealing section 3 and substituting –

"3. Trade effluent surcharge rates

Section 3(1)(a) and (b) is repealed and the following substituted –

"(a) if the billing period for the surcharge begins on a date before 1 August 2008 and ends on a date between 1 August 2008 and 31 July 2009 (both days inclusive), at the rate calculated in accordance with the formula specified in Part I of Schedule 5;

(b) if the billing period for the surcharge begins on a date between 1 August 2008 and 31 July 2009 (both days inclusive) and ends on a date before 1 August 2009, at the rate specified in column 3 of Schedule 1;

- (c) if the billing period for the surcharge begins on a date between 1 August 2008 and 31 July 2009 (both days inclusive), and ends on or after 1 August 2009, at the rate calculated in accordance with the formula specified in Part II of Schedule 5; or
- (d) if the billing period for the surcharge begins on or after 1 August 2009, at the rate specified in column 4 of Schedule 1, ". .";

(b) by adding –

"3A. Variation of trade effluent surcharge rate

(1) Section 4(2) is amended by repealing "or II" and substituting ", II or III".

(2) Section 4(3) is amended by repealing "2 years" where it twice appears and substituting "3 years".

(3) Section 4(4) is amended by repealing "2 years" and substituting "3 years". .";

(c) in section 4, by adding –

"(1A) Section 8(1) is repealed and the following substituted –

"(1) Where a new trade effluent surcharge rate –

(a) is determined under section 4(2) before 1 August 2008 during a billing period; and

(b) is applicable to the relevant consumer or agent on 1 August 2008,

the new rate shall be in effect for 3 years from the beginning of the billing period. On the expiry of those 3 years the rate provided for in section 3 shall apply subject to the consumer or agent having further tests done under section 4(1) and the Drainage Authority making another determination under section 4.".";

(d) in section 4(2), in the new section 8(4), by repealing "on or after 1 August 2009" and substituting "on a date between 1 August 2009 and 31 July 2010 (both days inclusive)";

(e) in section 4(2), by adding –

"(5) Where a new trade effluent surcharge rate is determined under section 4(2) and the billing period during which the determination is made begins on or after 1 August 2010 –

(a) the reference to Schedule 2 in section 4(2) shall be read as a reference to Schedule 2 as in force on 1 August 2008; and

(b) the applicable matrix is the matrix in Part III of Schedule 4.";

(f) in section 5, in the new Schedule 1, within the square brackets, by adding "& Sch. 5" after "s. 3";

(g) in section 5, in the new Schedule 1, in the heading of column 3, by adding "and ending on a date before 1 August 2009" after "inclusive)";

(h) by repealing section 8 and substituting –

"8. Schedule 4 substituted

Schedule 4 is repealed and the following substituted –

"SCHEDULE 4

[ss. 4 & 8]

PART I

TRADE EFFLUENT SURCHARGE RATE MATRIX FOR BILLING PERIOD BEGINNING ON A DATE
BETWEEN 1 AUGUST 2008 AND 31 JULY 2009 (BOTH DAYS INCLUSIVE)

COD_(s)

(g/m³)

	0	100	130	160	200	250	320	400	500	630	790	1 000	1 260	1 580	2 000
2 000	\$3.78														
1 580	\$2.82	\$2.82	\$2.82	\$2.86	\$3.06	\$3.30	\$3.63	\$4.02							
1 260	\$2.08	\$2.08	\$2.08	\$2.13	\$2.32	\$2.56	\$2.90	\$3.29	\$3.77	\$4.39					
1 000	\$1.49	\$1.49	\$1.49	\$1.54	\$1.73	\$1.97	\$2.31	\$2.69	\$3.17	\$3.80	\$4.57	\$5.58			
790	\$1.01	\$1.01	\$1.01	\$1.06	\$1.25	\$1.49	\$1.83	\$2.21	\$2.69	\$3.32	\$4.09	\$5.10			
630	\$0.64	\$0.64	\$0.64	\$0.69	\$0.88	\$1.12	\$1.46	\$1.84	\$2.32	\$2.95	\$3.72	\$4.73	\$5.98		
500	\$0.34	\$0.34	\$0.34	\$0.39	\$0.58	\$0.82	\$1.16	\$1.55	\$2.03	\$2.65	\$3.42	\$4.43	\$5.68		
400	\$0.11	\$0.11	\$0.11	\$0.16	\$0.36	\$0.60	\$0.93	\$1.32	\$1.80	\$2.42	\$3.19	\$4.20	\$5.45	\$6.99	
320	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	
250	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	
200	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	
160	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	
130	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	
100	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	
0	\$0.00	\$0.00	\$0.00	\$0.05	\$0.24	\$0.48	\$0.82	\$1.20	\$1.68	\$2.31	\$3.08	\$4.09	\$5.34	\$6.88	\$8.90
	0	100	130	160	200	250	320	400	500	630	790	1 000	1 260	1 580	2 000

COD_(t-s) (g/m³)

PART II

TRADE EFFLUENT SURCHARGE RATE MATRIX FOR BILLING PERIOD BEGINNING ON A DATE
BETWEEN 1 AUGUST 2009 AND 31 JULY 2010 (BOTH DAYS INCLUSIVE)

COD_(s)

(g/m³)

	0	100	130	160	200	250	320	400	500	630	790	1 000	1 260	1 580	2 000	
2 000	\$4.13															2 000
1 580	\$3.08	\$3.08	\$3.08	\$3.12	\$3.34	\$3.60	\$3.96	\$4.39								1 580
1 260	\$2.27	\$2.27	\$2.27	\$2.33	\$2.53	\$2.80	\$3.17	\$3.59	\$4.12	\$4.79						1 260
1 000	\$1.63	\$1.63	\$1.63	\$1.68	\$1.89	\$2.15	\$2.52	\$2.94	\$3.46	\$4.15	\$4.99	\$6.09				1 000
790	\$1.10	\$1.10	\$1.10	\$1.16	\$1.37	\$1.63	\$2.00	\$2.41	\$2.94	\$3.63	\$4.47	\$5.57				790
630	\$0.70	\$0.70	\$0.70	\$0.75	\$0.96	\$1.22	\$1.59	\$2.01	\$2.53	\$3.22	\$4.06	\$5.17	\$6.53			630
500	\$0.37	\$0.37	\$0.37	\$0.43	\$0.63	\$0.90	\$1.27	\$1.69	\$2.22	\$2.89	\$3.73	\$4.84	\$6.20			500
400	\$0.12	\$0.12	\$0.12	\$0.17	\$0.39	\$0.66	\$1.02	\$1.44	\$1.97	\$2.64	\$3.48	\$4.59	\$5.95	\$7.63		400
320	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51		320
250	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51		250
200	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51		200
160	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51		160
130	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51		130
100	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51		100
0	\$0.00	\$0.00	\$0.00	\$0.05	\$0.26	\$0.52	\$0.90	\$1.31	\$1.83	\$2.52	\$3.36	\$4.47	\$5.83	\$7.51	\$9.72	0
	0	100	130	160	200	250	320	400	500	630	790	1 000	1 260	1 580	2 000	

COD_(t-s) (g/m³)

PART III

TRADE EFFLUENT SURCHARGE RATE MATRIX FOR BILLING PERIOD BEGINNING ON OR AFTER
1 AUGUST 2010

COD_(s)

(g/m³)

	0	100	130	160	200	250	320	400	500	630	790	1 000	1 260	1 580	2 000	
2 000	\$4.51															2 000
1 580	\$3.36	\$3.36	\$3.36	\$3.41	\$3.65	\$3.94	\$4.33	\$4.79								1 580
1 260	\$2.48	\$2.48	\$2.48	\$2.54	\$2.77	\$3.05	\$3.46	\$3.92	\$4.50	\$5.23						1 260
1 000	\$1.78	\$1.78	\$1.78	\$1.84	\$2.06	\$2.35	\$2.75	\$3.21	\$3.78	\$4.53	\$5.45	\$6.65				1 000
790	\$1.20	\$1.20	\$1.20	\$1.26	\$1.49	\$1.78	\$2.18	\$2.64	\$3.21	\$3.96	\$4.88	\$6.08				790
630	\$0.76	\$0.76	\$0.76	\$0.82	\$1.05	\$1.34	\$1.74	\$2.19	\$2.77	\$3.52	\$4.44	\$5.64	\$7.13			630
500	\$0.41	\$0.41	\$0.41	\$0.47	\$0.69	\$0.98	\$1.38	\$1.85	\$2.42	\$3.16	\$4.08	\$5.28	\$6.77			500
400	\$0.13	\$0.13	\$0.13	\$0.19	\$0.43	\$0.72	\$1.11	\$1.57	\$2.15	\$2.89	\$3.80	\$5.01	\$6.50	\$8.34		400
320	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20		320
250	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20		250
200	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20		200
160	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20		160
130	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20		130
100	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20		100
0	\$0.00	\$0.00	\$0.00	\$0.06	\$0.29	\$0.57	\$0.98	\$1.43	\$2.00	\$2.75	\$3.67	\$4.88	\$6.37	\$8.20	\$10.61	0
	0	100	130	160	200	250	320	400	500	630	790	1 000	1 260	1 580	2 000	

COD_(t-s) (g/m³) " ;

(i) by adding –

"9. Schedule 5 added

The following is added –

"SCHEDULE 5 [s. 3]

PART I

RATES OF SURCHARGE IN RESPECT OF BILLING PERIOD BEGINNING ON A DATE BEFORE 1 AUGUST 2008 AND ENDING ON A DATE BETWEEN 1 AUGUST 2008 AND 31 JULY 2009 (BOTH DAYS INCLUSIVE)

$$\frac{(N1 \times R1) + (N2 \times R2)}{(N1 + N2)}$$

(a) In this formula –

N1: number of days of the relevant billing period before 1 August 2008;

R1: the rate that is specified in respect of the trade, business or manufacture concerned in column 3 or 4 (as may be appropriate) of Schedule 1 as in force immediately before the commencement of the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 (L. N. 106 of 2008);

N2: number of days of the relevant billing period after 31 July 2008;

R2: the rate that is specified in respect of the trade, business or manufacture concerned in column 3 of Schedule 1.

- (b) In paragraph (a), "relevant billing period" (有關的發單收費期間) means the billing period that begins on a date before 1 August 2008 and ends on a date between 1 August 2008 and 31 July 2009 (both days inclusive).

PART II

RATES OF SURCHARGE IN RESPECT OF BILLING PERIOD BEGINNING ON A DATE BETWEEN 1 AUGUST 2008 AND 31 JULY 2009 (BOTH DAYS INCLUSIVE), AND ENDING ON OR AFTER 1 AUGUST 2009

$$\frac{(N1 \times R1) + (N2 \times R2)}{(N1 + N2)}$$

- (a) In this formula –

N1: number of days of the relevant billing period before 1 August 2009;

R1: the rate that is specified in respect of the trade, business or manufacture concerned in column 3 of Schedule 1;

N2: number of days of the relevant billing period after 31 July 2009;

R2: the rate that is specified in respect of the trade, business or manufacture concerned in column 4 of Schedule 1.

- (b) In paragraph (a), "relevant billing period" (有關的發單收費期間) means the billing period that begins on a date between 1 August 2008 and 31 July 2009 (both days inclusive), and ends on or after 1 August 2009."."

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

MS AUDREY EU (in Cantonese): Deputy President, I am going to speak in my capacity as Chairman of the Subcommittee on Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 (Amendment Regulation).

The Subcommittee noted that the Amendment Regulation aims to revise the chemical oxygen demand (COD) values and the trade effluent surcharge (TES) rates in accordance with the results of effluent surveys conducted between 2005 and 2007 with a view to achieving full recovery of the attributable operating costs by 2009-2010. The Amendment Regulation proposes that, in accordance with results of the effluent surveys, three trades be removed from the TES scheme and that the TES rates for 27 trades be revised (of these, rates of 13 trades are to be reduced whilst the rates of 14 trades are to be increased). Also, to revise the TES rates upward over a period of two years, the matrices used to determine TES rates will be replaced.

While members agreed generally with the application of the "polluter pays" principle to the sewage services, they expressed concern about the approach to the assessment mechanism for the determination of TES rates. In the opinion of certain members, it was unscientific and unfair of the Government to set the generic COD values of the restaurant trade by taking just 22 effluent samples out of more than 10 000 restaurants in 1995. The restaurant trade holds that, with the Government collecting only 384 samples for the said trade when conducting the effluent survey, the average COD value thus worked out just cannot represent the generic COD value of the trade or reflect their efforts to control pollution and improve the quality of effluents over the years. With that resulting in the TES rate being reduced by only 19%, they are disappointed. As there is the possibility that the generic COD value worked out on the basis of survey findings had been pushed up by effluents discharged by a small number of restaurants with very high pollution loads, the restaurant trade thinks that such an arrangement might result in operators with small discharge loads subsidizing those with high pollution loads. Some members shared the restaurant trade's view, that it is more equitable to adopt the median COD value as the generic value as, in this way, at least half of the operators will not have to seek reassessment. The Administration advises that the assessment mechanism is a

professionally sound and established practice based on scientific methodology and in accordance with the "polluter pays" principle.

With regard to the 14 trades with increased new TES rates, certain members questioned why the TES rates of some still go up whilst their generic COD values as reflected in the effluent survey have actually gone down. According to the Administration's explanation, this is for the policy objective of achieving full recovery of the operating costs. Certain members pointed out that there is inequity when the Government apportions the Sewage Services cost between the operating costs of the two programmes of Sewage Charge and TES. According to the Administration, upon the implementation of the current proposal, the apportionment of Sewage Services cost between the Sewage Charge scheme and the TES scheme will change from a ratio of 78:22 to a ratio of 85:15. However, members noticed that the apportioned expenditure for the TES scheme has somehow increased in the last five years. The Subcommittee has requested the Administration to give an undertaking that it would discuss with the Legislative Council on ways to address the situation should the TES scheme result in a cost recovery in excess of 100%. The Secretary made mention of this in his speech earlier on.

The Subcommittee noted that as high as 84% of applications for reassessment of TES rates from the restaurant trade in the past 12 years were successful. The average COD value for the reassessment cases is far lower than the current generic COD value. The restaurant trade holds that this adequately proves that most restaurants have in fact been over-charged. According to the Administration, the lower COD values of reassessed cases represent the performance of the top 2% restaurants with the best pollution control practices. The restaurant trade reflected to the Subcommittee that an application for reassessment of TES rate involves cumbersome procedures, and that it is likely for the required cost to be higher than the TES payable. In their opinion, if the Administration agrees to refund the reassessment cost to successful applicants, many operators will apply for reassessment. The Administration indicates that it is not aware of examples of legislative provisions by which the Government is obliged to refund to a successful applicant fees attributable to reassessment. To provide a financial incentive for operators to improve effluent quality, the Subcommittee proposed to introduce an amendment to stipulate that the cost of an applicant successful in the application for reassessment is to be borne by the Government. However, the relevant amendment has charging effect, so it can be introduced only if there is written consent from the Chief Executive. As the

Chief Executive is not prepared to make endorsement to this effect, the said amendment cannot be tabled for voting by Members even though it did receive support from the Subcommittee.

Members knew that the restaurant trade urges the Administration to streamline the reassessment procedures. To alleviate the burden on the operators, the Administration agrees to introduce amendments to further extend the validity of the reassessment of TES rates from two years to three years, and to defer for one year the effective dates of matrices governing the reassessment of TES rates to allow more time for the trades to adjust to the proposed increase.

The Subcommittee noted that the Amendment Regulation will come into force on 1 August 2008. The Amendment Regulation at first proposed that whether or not the existing or new TES rate should apply during the transitional period should be subject to the date of the first day of the billing period. After consideration, the Government accepted members' recommendation to apportion TES on a pro rata basis by using 31 July 2008 as the cut-off date. The existing TES rate will apply to the part ending or preceding 31 July 2008 whilst the new generic TES rate will apply to the part following that date. The Administration will move an amendment to bring into effect the Subcommittee's recommendation.

In the course of discussions, the Subcommittee urged the Government to adequately consult the relevant trades on the reassessment of TES rates, and inform the trades for which the TES rates are going to be revised upwards. Members also asked the Administration to take appropriate actions against operators with very high pollution loads.

The Subcommittee supported the Resolution proposed by the Administration.

Deputy President, I would now like to present the following views in my personal capacity as well as on behalf of the Civic Party. The Civic Party is, of course, in favour of the "polluter pays" principle, and also understands that the Government is going to apportion, in stages, the total cost among the TES trades. We, however, are particularly concerned about several points. First, it is about the reassessment cost, something already mentioned in the speech delivered by me as Chairman of the Subcommittee. We have heard views presented by various trades. With regard to the figures presented by them, it can be said that

the Government, more or less, concurs and accepts. Noticeable from this is that, whilst their appeals enjoy a relatively high success rate of over 80%, the reassessment cost incurred by them is often close to the TES payable. So, there is no financial incentive for them to lodge appeals.

Based on this principle, the Subcommittee in fact agreed to introduce an amendment out of a wish that the Government would meet the costs of successful applications. I heard the Secretary say just now that he was thankful to the Subcommittee for its useful and constructive suggestions. Deputy President, they are certainly useful and constructive because in many cases the English saying "Put your money where your mouth is" applies. After the Government has conducted tests and worked out the average effluent strength of every trade, if a certain restaurant or business charged for TES is able to prove that they have in fact made a lot of efforts and that their pollution load is already lower than that of ordinary users, then, in order to provide an incentive, the Government must give award. So, when translated into Chinese, the aforesaid saying means that there has got to be a financial incentive. What the Secretary said just now is only lip-service. On the one hand, there is the remark telling people that there has got to be a financial incentive. On the other hand, there is the refusal to refund successful applicants the reassessment cost. Deputy President, the Civic Party finds this very regrettable.

Deputy President, we are both members of the legal profession, and well understand that this is in fact something very common. If a person thinks he is well justified and has an urge to initiate proceedings, then he may just feel free to do so. If it ends in defeat, it is, of course, still necessary to foot the bill of the other party's lawyer. If it ends in victory, then the other party has to foot the bill of your lawyer. This is a very fair principle. By the same token, we think this ought to be applicable to the cost payable for reassessment of TES. It is, however, a big pity that the Government is not prepared to give consideration to this. In our opinion, this does not involve additional charges as, after all, none of the sewage costs is paid for by the Government. They are apportioned among the relevant trades. Hence, we cannot see any reason why there will be additional cost.

Moreover, the Civic Party is very concerned about another point. Deputy President, though TES goes down for most of the trades, it does go up in the case of certain trades. It is the Government's practice to hold back bad news. The Government told us that most of the charges have been revised

downward. However, there has been no proper consultation with the few trades for which the charges have indeed been revised upward. The only remark is that there has been collection of water samples for testing since 2005. The outcomes, however, have not been made known to the individual trades.

So, it came to the notice of the Subcommittee during the discussions that individual trades to which higher charges are to be applicable are not necessarily aware of the increases that they are facing. We, therefore, also gave advice on this. After consideration, the Government agreed to defer for one year the effective date of matrices determining TES rates. This can be considered a small concession. However, we have to press upon the Government the need to give operators of the trades adequate and appropriate notification about future increases. This can allow the Legislative Council to do its work more smoothly and members of the public to see a fairer hand of the Government.

Deputy President, on this, we in the Civic Party support this Resolution of the Government. Thank you.

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

MR TOMMY CHEUNG (in Cantonese): Deputy President, first of all, I would like to thank Ms Audrey EU for chairing the Subcommittee. Just now she spoke in her capacity as Chairman of the Subcommittee as well as on behalf of the Civic Party. I listened closely to her speech. It can be said that I fully support her comments.

In 1995, being indignant at the unfair levy of the trade effluent surcharge (TES) on the restaurant trade by the then Hong Kong British Government, I took up politics. After 13 years, I cherished much hope as the Administration was to conduct a fresh effluent survey and reassess TES rates for the 30 trades under the TES scheme.

However, even though the public officers are all new faces, the situation remains unchanged. Sitting on the Subcommittee responsible for the examination of this piece of legislation, I noticed that for matters ranging from water sampling and the calculation of charges to the work of consultation, the

Administration is still riddled with problems. In particular, the Administration has consulted trade operators and the Legislative Council in a misleading manner. This is quite disappointing.

Let me first talk about the sampling method. For more than 10 years, I have been making the criticism that it is unscientific and unfair of the Government to work out the TES for the restaurant trade by taking effluent samples from just 31 restaurants. It appeared that the Administration did give ear to the comments. Over a period of two months in 2005, 384 effluent samples were collected from the restaurant trade. That represented an increase of more than 12 folds over the number of samples collected 14 years earlier. The illusion was that, operators of the trade would then be convinced that it had a scientific basis.

When pressed by repeated queries from the Subcommittee, the Administration then pointed out that, with regard to the 384 effluent samples obtained, the effluent strength stood at COD values ranging from 32 g/cu m to 77 500 g/cu m. The COD values still ranged from 32 g/cu m to 14 900 g/cu m even with the omission of the 10 most extreme samples. The difference was still huge. It was on the basis of these data that the Administration worked out the mean COD value for the trade, and arrived at the reading of 1 630 g/cu. However, of the 300-odd water samples, less than one third exceeded this figure. Apparently, a minority of water samples with very high pollution loads pushed up the generic COD value.

(THE PRESIDENT resumed the Chair)

Throughout Hong Kong, restaurants for which TES are payable number 14 000. They, consisting of establishments like restaurants, cafes, snack shops and desert shops, are of different sizes, and have all sorts of sewage systems. With the 300-odd effluent samples representing less than 3% of our local restaurants, I wonder how a reasonable estimate could possibly be worked out from the average pollution load on the basis of such a small number of effluent samples. The Administration in fact was not thorough in doing the survey.

As a matter of fact, in the past five years, 84% of the applications for reassessment from the restaurant trade turned out to be successful. What is

more, their pollution loads on average stood at just COD 855 g/cu, a reading almost 50% below the revised generic value. Nevertheless, for this type of cases, in order that their TES can be reduced on the basis of their actual pollution loads, applications for reassessment must still be made in the future. What is the reason for this?

Moreover, many small and medium-sized restaurants have all along been unable to afford the reassessment. Prior to the year 2007, reassessment approximately cost \$30,000 to \$40,000. The Government, however, performed a good deed last year, in streamlining the reassessment procedures and extending the validity of reassessment from two to three years. So, according to conservative estimate, reassessment costs have been lowered to \$15,000 to \$20,000. It is now possible for more restaurants to apply for reassessment. However, reassessment costs on average still stand at \$7,500 to \$10,000 per year. In the case of some 60% of our restaurants, the annual payment of TES is not more than \$7,000. In other words, in the case of those restaurants, the reassessment still costs more than the TES. How can they possibly apply for reassessment?

Surely, I welcome the Administration's final decision, one showing readiness to accept good advice by introducing an amendment to extend the validity of reassessment from two to three years so as to further reduce the reassessment costs. I, however, hold that the most equitable approach is to work out the TES rates on the basis of the median COD value coming out of sampling. The alternative is for the Administration to refund the reassessment costs to operators successful in their reassessment applications.

However, the Administration, pointing out that calculation based on the median value is prejudicial to the value of even apportionment, rejected the calculation based on the median value. In that case, the Administration should refund the reassessment costs to operators successful in their applications for reassessment.

As a matter of fact, the Administration worked out excessively high TES rates by applying an unscientific sampling method. Yet the operators are required to pay for their own reassessment applications. That is to say, corporal punishment of 10 strikes must precede any redress of injustice. To get back the money, one must pay the reassessment costs. Isn't this "robbery at gunpoint"?

The Subcommittee, therefore, proposed to introduce an amendment requiring the Government to refund reassessment costs to operators successful in their reassessment applications. Unfortunately, the President ruled that the proposed amendment would have charging effect, and said no to it. I very much respect the President's decision, the reason being that the Chief Executive is not prepared to let you reach that decision. Nevertheless, I have to thank members of the Subcommittee. They all considered that to be an equitable approach. Ms Audrey EU has just stated her views. I think many Members, such as Mr Martin LEE, share the same opinion. Although we are unable to bring in the amendment, members of the restaurant trade, because of the expression of support from a number of Members, at least find their aspirations well justified after having stomached their grievances for many years. However, the end result is still a "robbery at gunpoint" by the Government. They are also very grateful to you all and look forward to your continued support in this matter.

However, the Administration should not adopt a "couldn't care less" attitude just because of this. The fact that the Subcommittee agreed to introduce such an amendment reflects the point that every person considers it to be unfair of the Administration to require operators to pay for their own reassessment applications. The Administration should conduct their own review to explore the possibility of refunding reassessment costs to those successful in their reassessment applications.

Besides, I have strong feelings about the approach adopted by the Administration in conducting consultation. When the Administration sought to market to the Environmental Affairs Panel of this Council the result of the current sampling of the strength of effluents and TES rates in March this year, it was highlighted that the TES rates of 13 trades would go down. Yet the point that the TES rates of 14 other trades will go up, either in one go or by two increments, was given hardly noticeable mention.

When the Subcommittee responsible for the examination of this subsidiary legislation asked the Administration whether or not they had consulted the 14 trades to gauge their views on the hikes, the Administration sidestepped the question and sought to mislead the public by saying that, before the actual sampling, the Hong Kong Productivity Council had been asked to issue letters to 88 trade associations on top of the restaurant trade to explain the survey objectives and the sampling methodology, and that eventually meetings were held with five trade associations.

How can this be called consultation? To explain how to collect water samples before the sampling is one matter. To explain the results, especially the decision to increase the charges, after the sampling is quite another. However, the Administration mentioned them in one breath, and even sought to pass the buck by claiming that all the different sectors had been invited through this Council's Environmental Affairs Panel to present views. The Administration is indeed indulging in sophistry!

There is something even more outrageous. At first, I did not pay attention to how the calculation arrived at increases in the TES rates. Not until June this year, when this piece of subsidiary legislation was presented to the Legislative Council by the Administration for scrutiny clause by clause, was it explained that the proposed new TES rates were the results worked out on the basis of two new calculation charts.

This calculation chart is known as matrix. It is a cross reference table showing by how much the TES rate goes up correspondingly as the COD value rises per unit of water. Under the Administration's original proposal, the existing matrices would be revised upwards on 1 August this year and 1 August next year. Each increase would be as high as 9.2%. And the two increases would add up to 19.2%, far higher than inflation. According to the Administration's explanation, it has got to comply with the "polluter pays" principle with a view to recovering, step by step, the full cost.

I have to emphasize that, when the Administration, in a move to effect "cooling off", presented papers to the Environmental Affairs Panel for discussion in March this year, the two revised new matrices were not made available to members for reference. What is more, one year ago, when the Administration explained to the Hong Kong Catering Industry Association, of which I am also the President, the initial review results of the TES payable by the restaurant trade, no mention was made of the plan to revise upwards the matrices used to calculate TES rates.

To market and conduct consultation in such a manner is absolutely purposeful misleading. On the one hand, the Administration told members of the trade that the TES rates would be set on the basis of results coming out from a new round of sampling of effluent samples, thus convincing members of the trade that the TES rates would be lowered so long as they would be "good boys" and improve the quality of effluents. In actuality, the Administration, on the

other hand, surreptitiously played tricks, arranging to increase the charge for each unit of water in the matrices by nearly 20% over a period of two years.

Here is what is even more unacceptable to me. From 1 August this year onwards, the cuts in TES for those successful in their reassessment application will, because of the upward revision of the matrices, be 9.2% less than what they have been. For those successful in their applications for reassessment after 1 August next year, the cuts in TES will even be 19.2% less.

For years, members of the trade have tried hard to improve the quality of effluents and applied for reassessment, out of a wish to submit to the Administration data showing an overall improvement in the quality of their effluents. However, at the end of the day, the Administration not only does not lower the TES of the most obedient customers, but even charges them higher rates. Why?

As a result of my repeated queries, the Administration eventually agreed to make amendment to defer the revision for one year, arranging to effect the upward revision of the matrices in two stages, one on 1 August 2009 and one on 1 August 2010. This is to give those applicants for reassessment more time for adjustment.

It is with reluctance that I accept the Administration's ultimate proposal. Honestly, the most satisfactory approach is for the Administration to calculate the TES rates for each of the 24 trades on the basis of the old matrices until there is adequate consultation with, and consent from, the 14 trades originally targeted by the proposal for the hikes. Only then should the matrices and TES rates be revised in one go.

Fourteen years ago, the catering industry was not represented in the Legislative Council. As a result, the restaurant trade had to shoulder 75% of Hong Kong's TES. Now, 14 years down the line, in dealing with the policy on TES increases, the Administration still feigns consultation by indulging in sophistry like the Hong Kong British Government. This is inconceivable. Is this a bad habit on the part of the Civil Service, Madam President? Or is it that there is something wrong with the department in charge? I call upon the Secretary for the Environment to follow up this. Don't just "shrug it off" or seek to sit on the matter.

It should be noted that the existing TES mechanism is, in actuality, a zero-sum game. According to data provided by the Administration, between the year 1998-1999 and the year 2007-2008, the spending on TES grew from \$191 million to \$226 million. Throughout all the years, the rise has almost been non-stop.

In other words, even if there is a major improvement in the overall quality of the effluents of the trade, their TES still will have to rise to keep pace with an incessant increase in the Administration's cost. The Administration rhetorically calls it the "polluter pays" principle. There is even the allegation that, given such a principle, their TES rates will be increased by two increments for the reason that members of trade "have not made enough improvement to justify cuts in their TES rates".

The Administration has made no promise of capping the spending on the cost of sewage services. On the contrary, the blame is put on members of the trade. The increases are being described as reasonable on the pretext that the improvement made to the quality of effluents by members of the trade cannot keep pace with increases in cost. This is distortion of the truth and specious talk.

Here is the actuality. The "polluter pays" principle is just a slogan used by the Administration for 13 years for the purpose of "cheating". In fact it is just for the purpose of "getting me to pay for a banquet thrown by you". Members of the trade are asked to subsidize the Government's ever-growing operating cost of the sewage services.

TES has been the object of denunciation ever since its introduction on 1 April 1995. There is the charge that the method to determine the quality of effluents of all the different trades is unfair and unscientific. Reassessment costs a lot and involves complicated and cumbersome procedures. The operating cost of sewage services is rising incessantly. Measures to broaden sources of income and reduce expenditure are nowhere to be seen.

In 2005, the Administration conducted another survey on the quality of the effluents of all the different trades. The opportunity should have been taken to bring order out of chaos. Regrettably, the Administration not only did not do so, but even repeated the mistake by doing the survey in a slapdash manner. Also, for consultations with members of the trade and the Legislative Council,

both misleading tactics and quibbles were employed. Members of the trade have to bear the operating cost of the sewage services, which has been growing like a snowball.

I daresay this: Should members of the trade manage to raise enough funds and jointly apply for reassessment, at least two thirds of the customers from the restaurant trade will be successful. By then, the Administration's charging system will definitely collapse. The apportionment of sewage services cost between customers paying sewage charges and those paying TES can no longer be 85 to 15 as under the new revision. It is likely to be 90 to 10 or even higher. By then, not even the original 10-year programme of sewage charge increases can possibly cope.

I have to remind the Administration to make an undertaking to the effect that if the cost-recovery rate of TES exceeds 100% in a particular year, the amount over-charged will be refunded to members of the trade. There should not be any transfer from the left pocket to the right simply to get members of the trade to subsidize the Administration.

President, I so submit.

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

MR SIN CHUNG-KAI (in Cantonese): President, I also support the motion. When we had discussions in the Subcommittee, I myself did not find it very controversial. Surely, just now Ms Audrey EU also presented some views on behalf of the Subcommittee.

However, there is one point that I would like to make. Thirteen or 14 years have passed since 1995. In my opinion, this ought to be a scientific issue. I do not think there is anything wrong with the charging scheme. With regard to the relevant arguments, logic, and the "user-pays" principle, I, on the whole, do concur. However, some people find it quite disagreeable or unacceptable. Perhaps it is felt that the approach adopted is somewhat problematic. I hope the Secretary can look into it. After the passage of this motion, consideration should be given to presenting more detailed explanation by way of a consultation

committee and conducting another survey after that. As a period of time has elapsed since the end of last year, I wonder if it is possible to draw up a plan to have another round of water sampling that is more comprehensive and collects more samples by the time of the next Legislative Council in order that there can be a more scientific tabulation. If that is done, then at least some of the arguments can be assuaged. This is my opinion.

I so submit.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Madam President, first of all, I would like to thank again the Chairman and members of the Subcommittee for the views given to me when examining this motion.

With regard to the entire process, Mr Tommy CHEUNG gave his views on a number of matters, such as how the Government should collect samples, formulate the revision of TES and achieve recovery of attributable operating costs. The Government has given ear to his views regarding these matters. Surely, we do understand and notice that the entire trade have improved the quality of their effluents. Precisely because of this, there are cuts or reductions for approximately over 50% of all the trades under the scheme. In terms of establishments, those getting cuts or reductions outnumber those required to pay more.

Of course, whenever there is to be full recovery of cost or implementation of the "polluter pays" principle, some will gain whilst some will lose because of that. On this, the Government has considered all the different ideas from Members, and introduced some relief measures. Put it in plain words, just as stated in the main speech delivered by me earlier on, we understand that when

establishments apply for reassessment of TES, they often have the worry that it might not be economical to apply for reassessment on account of the reassessment costs involved or for reason of the exceedingly short validity period allowed as a result of reassessment. So, we have made an adjustment, by extending the validity period to provide an incentive for people to apply for reassessment. The reason is that it is our ultimate goal to get every person to improve the quality of the effluents.

Also, given the fact that the TES for some operators, because of our requirement to achieve recovery of cost, may rise a little instead of getting cuts or reductions, we undertake to defer the effective date by one year. It is hoped that during the year we can get on with our discussion and consultation with members of the trade.

For the scheme as a whole, we are pleased that all Members agree to the "polluter pays" principle, and have it firmly established. We will continue to listen to Members' opinions. It is hoped that there can be closer contact with members of the trade in the event that we need to conduct another review or collect effluent samples. Hence, in addition to getting Members' views, I also call upon Members to support this motion in order that this Resolution is passed, such that operators can get cuts or reductions early.

I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for the Environment 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 motion 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 Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region.

I now call upon Ms Miriam LAU to speak and move her motion.

PROPOSED RESOLUTION UNDER THE RULES OF PROCEDURE OF THE LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

MS MIRIAM LAU (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

In response to the reorganization of the Government Secretariat in last July, the Committee on Rules of Procedure examined the effect of the reorganization on the work of the 18 panels in the Legislative Council in last June and proposed that a review should be conducted towards the end of this Session on the panel structure, with a view to providing a proposal for the Legislative Council of the new term. In response to the recommendation of the Committee on Rules of Procedure, the Secretariat conducted a review of the operations of existing panels and consulted the views of the Chairmen of the 18 panels and the Administration between March and May 2008.

Having considered the views of the Chairmen of various panels and the Administration, the Committee on Rules of Procedure recommended to the House Committee that the terms of reference of the Home Affairs Panel, Welfare Services Panel, Constitutional Affairs Panel, Environmental Affairs Panel and Development Panel should be amended, and the relevant amendments mainly include:

- (a) the transfer of the policy area of "Human rights, data protection and press freedom" from the Home Affairs Panel to the Constitutional Affairs Panel;
- (b) the transfer of the policy area of "Development-related heritage conservation" from the Home Affairs Panel to the Development Panel;

- (c) currently, the policy area of "Women Matters" is within the terms of reference of the Home Affairs Bureau. According to the proposed amendment, issues relating to "women welfare" will come under the Welfare Services Panel, while issues relating to reporting under the Convention on the Elimination of All Forms of Discrimination against Women, such as the political participation right of women and women status, should come under the Constitutional Affairs Panel responsible for human rights;
- (d) the addition of the policy area of "Family Council" to the terms of reference of the Welfare Services Panel; and
- (e) the specification of the Economic Development Panel and the Environmental Affairs Panel be responsible for issues related to "energy". Economic issues relating to energy supply and safety will be followed up by the Economic Development Panel, while environmental issues relating to energy will be followed up by the Environmental Affairs Panel.

All the proposed amendments have been agreed by the House Committee.

Madam President, to implement the proposed amendments agreed by Members, I move this motion in my capacity as Chairman of the House Committee. The proposed resolution, if passed, will take effect on the day when the next term of the Legislative Council begins.

Thank you, Madam President.

Ms Miriam LAU moved the following motion:

"RESOLVED that the amended terms of reference and list of corresponding bureaux/bodies set out in the Schedule, as recommended by the House Committee, be approved in respect of the existing 18 Panels formed by resolutions made and passed by this Council at its meetings of 8 July 1998, 20 December 2000, 9 October 2002 and 11 July 2007; and that the amendments so approved shall take effect on the day when the 2008-2009 session of the Council begins."

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

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

MS AUDREY EU (in Cantonese): President, I would like to make one particular point, that is, the terms of reference of the Environmental Affairs Panel have been amended. Originally, issues relating to energy are handled by the Economic Services Panel, but now issues relating to the environment are brought under the Environmental Affairs Panel.

President, I think this is a good improvement. Recently, we noticed that many bills came under the scrutiny of the Legislative Council of the current term were largely related to energy. For instance, the Air Pollution Control (Amendment) Ordinance is related to the emissions caps on power stations, while clean energy or alternative sources of energy are environment-related issues.

Recently, the Secretary came to the Environmental Affairs Panel to report on the concept of liquefied natural gas terminal. However, no one knows why it was reported that one of the colleagues, Miss CHOY So-yuk, had said she thought that the Secretary for the Environment was buying off Members from the pan-democratic camp to affect the environment. I wonder if those remarks really came from Miss CHOY So-yuk, or that the report was incorrect.

Moreover, we are aware that many issues are closely related to the Environmental Affairs Panel. Take the depositing of inert construction materials as an example. It is related to the policy areas of the Development Bureau, as well as other areas like planning, housing or transport. President, I think the people of Hong Kong have expressed growing concern about our environment. I earnestly hope that the Legislative Council of the next term will have more discussion on environmental issues. Even if those environmental issues are related to the terms of reference of other panels, they may also be discussed at the Environmental Affairs Panel.

President, I would like to mention one particular point. Before the reorganization in July, the Council for Sustainable Development was under the

Chief Secretary for Administration — it was in some measure superior to the 11 Bureaux at the time — which was co-ordinated by the Chief Secretary for Administration's Office. However, after the reorganization, the Council for Sustainable Development will be downgraded and led by the Deputy Secretary for the Environment under the Environment Bureau. This is in fact a regression. President, I very much hope that the SAR Government will be concerned about environmental affairs, and that it will raise the concern of various government departments about the environment.

Thank you, President.

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

MS EMILY LAU (in Cantonese): President, I share the views expressed by Ms Audrey EU earlier. At the meeting of the Committee on Rules of Procedure, it was said that it would be a better approach if the reorganization of Policy Bureaux would result in one bureau reporting to one panel, only with the exception of the Legal Aid Department (LAD). We also disagreed with the arrangement by the Government of placing the LAD under the Home Affairs Bureau. Concerning the policy area of the environment, it was considered most desirable that issues relating to energy or other environmental issues were reported to the Panel on Environmental Affairs of the Legislative Council. However, some colleagues considered that the Economic Affairs Panel was also gravely concerned about issues relating to energy. As a result, the authorities have to deal with two panels concurrently. Sometimes, even Members do not know which panel should hold discussion on a certain issue.

Eventually, Members considered that discussions should be held separately. Actually, every issue can be viewed from many aspects, and there are different aspects even in the economic, social, environmental protection and political areas, and so on. If each and every issue has to be divided this way, certain Directors of Bureau may have to attend the meetings of four panels. Therefore, in my view, it would be better to keep a clear-cut arrangement, that is, one Director of Bureau reporting to one panel. Though some Members disagree with this, President, I would like to express my opinion here.

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

DR FERNANDO CHEUNG (in Cantonese): President, I would like to add a few lines about the reshuffling of the terms of reference. The authorities have once considered placing women matters all under the Welfare Affairs Panel. As the Chairman of the Welfare Affairs Panel, I am really worried about that.

Women affairs used to cover a wide range of areas, apart from issues relating to welfare, there are also issues relating to human rights and gender equality. Since human rights issues were within the policy area of home affairs, these issues were dealt with by the Home Affairs Panel in the past. Now that the policy area of human rights is put under the purview of the Constitutional and Mainland Affairs Bureau, we have to reorganize again. During the reshuffle, it was said that consideration would be given to putting the Women's Commission under the Family Council, while the Family Council was under the Home Affairs Bureau. So the situation is indeed confusing. Since the Government seems to be undecided, it has made it difficult for the Legislative Council to adjust its structure to cope with the reorganization.

Finally, I consider that women affairs relating to welfare may be put under the Welfare Affairs Panel for discussion, but it is inappropriate to include other issues. Therefore, I find the present reorganization satisfactory. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon Ms Miriam LAU to reply. This debate will come to a close after Ms Miriam LAU has replied.

(Ms Miriam LAU shook her head to indicate she did not wish to reply)

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

PRESIDENT (in Cantonese): First motion: Report of the Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education, and Employment Opportunities for Children with Special Educational Needs.

I now call upon Dr Fernando CHEUNG to speak and move his motion.

REPORT OF THE SUBCOMMITTEE TO STUDY ISSUES RELATING TO THE PROVISION OF BOARDING PLACES, SENIOR SECONDARY EDUCATION AND EMPLOYMENT OPPORTUNITIES FOR CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

DR FERNANDO CHEUNG (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

On 14 January 2005, the House Committee set up a Subcommittee to study issues relating to the provision of boarding places, senior secondary education,

and employment opportunities for children with special educational needs (SEN). After working for three years, the Subcommittee completed the relevant study, in the course of which views on the issues under study were received from 73 deputations and 20 individuals.

First of all, on behalf of the Subcommittee, I would like to thank all the deputations and individuals that have attended meetings of the Subcommittee. Views from them not only gave members a better understanding of the issues under study but even constituted the foundation of the Subcommittee's various recommendations. I also give my thanks to the Secretariat of the Legislative Council for conducting a research on special education in California of the United States, Ontario of Canada, England of the United Kingdom, and Taiwan to provide members with valuable information and make it possible for us to refer to the experience of different places.

The Subcommittee has also reproduced in the Report the main points of discussions of the past three years, and made 46 recommendations for the issues under study. With regard to the Subcommittee's issues of concern, I am going to elucidate the key points.

The Subcommittee discussed integrated education (IE) again and again. Though members were in favour of the concept of IE, a lot of problems came into light in the course of implementation, among which the question as to how the schools and teachers should look after students with all the different types of special educational needs (students with SEN) being the toughest. Setting out from the legal and realistic points of view, members had explored the possibility of allowing each school to confine their admission to students with one or two specific types of SEN. Members understood that such a practice is likely to breach the fundamental principles of the Disability Discrimination Ordinance. The Subcommittee also noticed that there was practical difficulty in putting students with SEN into specific categories. After thorough study, members still held that for the successful implementation of IE, there must be specialized division of labour among schools and teachers to develop expertise in teaching students with different types of SEN so as to promote the development of expertise by the schools.

So, the Subcommittee suggested that the Government provide administrative support as well as additional resources to encourage every

conventional school to admit students with basically a type or two of SEN. For primary and secondary schools, the "funding following student" principle should be adopted so that there can be tier-3 support for the school to hire resource teachers and teaching assistants for the enrolment of every student suffering from autism, attention deficiency or hyperactivity disorder.

Members of this Council also understand that some of the students with SEN, for reason of their disabilities, cannot go to mainstream schools for IE and, thus, have the need to attend special school. So, the Subcommittee looked into the services currently available in special schools. Unacceptable to the members is that up to now, neither the Education Bureau nor the Social Welfare Department (SWD) provides residential respite service to persons with disabilities under 15. I must point out that residential respite service is very important. Parents need to have a safe and reliable place of temporary care where they can temporarily set down their disabled children to attend to urgent matters or have some reprieve.

As a result of efforts by the Subcommittee, the Government admits that there is indeed a service gap in this area, and agrees to implement the said programme with effect from the year 2008-2009 to extend the existing residential respite service being provided by the SWD through NGOs to accommodate persons with disabilities under 15. The Subcommittee understood that many parents do not consider such arrangement to be the ideal. In their opinion, the best solution is for special schools with boarding sections to provide respite service. Nevertheless, we have already taken an important step for the respite service required by children and young persons with disabilities. I hope that in the long run the Government will not rule out accepting the solution preferred by parents.

Madam President, on leaving school, students with SEN also want to be integrated into the community. It is, of course, desirable to achieve self-reliance. According to the Subcommittee, whether or not the community is prepared to let them have an opportunity is the crux of the matter. Unfortunately, it has been noticed in the course of our study that the answer is often in the negative. Let me present some figures for Members' reference. As at 31 March 2007, the Government, the biggest employer, only hired 3 263 persons with disabilities, a figure representing around 2.1% of the strength of the Civil Service. In the case of government-subsidized organizations (GSOs) and statutory bodies, the situation is even more disappointing. The Labour and

Welfare Bureau recently conducted a survey, covering a total of 272 GSOs and statutory bodies. A total of 201 replies were received. Among them, only 64 organizations (32%) had formulated policies and procedures regarding employment of persons with disabilities; 13 organizations (6%) had set up an employment indicator of 2% on average; and 17 organizations (8%) had announced the numbers of persons with disabilities employed in their annual reports. If not even government departments or GSOs are prepared to hire persons with disabilities, I wonder how we can possibly expect or ask the private sector to give persons with disabilities employment opportunities. I think colleagues also share this view.

The Subcommittee urged the Government and GSOs to take the lead in employing persons with disabilities. This is to use real actions to show to the public that Hong Kong is an accommodating society receptive of persons of different abilities (especially persons with disabilities) and willing to provide an employment opportunity for them to bring into full play their talents.

It is sincerely hoped that at the end of today's debate, the efforts made by the Subcommittee over the past three years as well as all the problems identified and recommendations presented will not just become documents, but, instead, arouse among the people concern and discussions about students with SEN and provide the Government with valuable information as reference in projecting the future course for improvements to the relevant services. Finally, I would like to thank the Secretariat in my capacity as Chairman of the Subcommittee. But for the hard efforts of every member of the Secretariat, it would have been impossible for us to compile such a useful report based on the outcomes of our deliberations.

Madam President, henceforth I shall speak in my personal capacity. I need not repeat what is written in the report. I am going to pick just a few excerpts and say a few words about these few years' experience. All the items stated in the report, including the 46 recommendations, are very important. There are reasons justifying the presentation of these recommendations.

At the time of the inception of the Subcommittee, it so happened that the Education Bureau — not known as the Education Bureau then but as the Education and Manpower Bureau — had just released an important consultation paper on the "334" reform, namely an academic reform concerning senior secondary education and higher education. That consultation paper consisted of

53 pages. However, there were only some 80 characters in the Chinese version regarding special education and students with SEN.

Madam President, according to the story that I heard later, they had in fact forgotten about special education. However, on the eve of the release of the said consultation paper, someone made enquiry about the situation of special education and students with SEN. They put in the said paragraph as a matter of great urgency. Madam President, the wording of that paragraph was tepid, not even mentioning intellectually disabled students. In fact, the incident is indicative of the little concern for special education shown by the SAR Government of today. It is, of course, impossible to relate clearly their situation in some 80 Chinese characters.

Later on, we in the Subcommittee focused our discussion on the question as to whether or not special education should be reformed correspondingly if the overall academic system undergoes the "334" reform. The Administration just mumbled along. Thanks to the lobbying by different parties, the Government finally answered in the affirmative, and agreed that there should be parallel development as well as corresponding reform.

Madam President, it is perhaps necessary for me to declare interests. My daughter is going to a special school. She is now 17 years old. Had this reform not progressed correspondingly, it would have been necessary for her to leave the school. Under this reform, students with SEN may spend a few more years in special schools. However, it is still riddled with problems. I am not going to repeat all the details here.

Here is another point that I would like to raise. Of the seven physically disabled (PD) schools, in fact only two provide boarding, one being on Hong Kong Island and the other in Kowloon, but none in the New Territories. Some parents, therefore, raised funds themselves and took the initiative to set up in New Territories East a self-financed dormitory. New Territories West has none. After vigorous lobbying by the Subcommittee, the Government has agreed to provide New Territories West with a PD school with boarding section. This is hard to come by.

Eventually, the lobbying turned out to be successful. The Administration was to provide a new school building. However, it was found out that the new school building would be some distance from the existing school building. It

would take five to 10 minutes to travel by car. A PD school was thus to be divided into two separate units. I wonder if consideration has been given to the point that this is going to be a through school, one taking in children from the age of six onwards, with both primary and secondary sections. It is odd that a PD school is to be divided into two sides. It might be necessary for students to go to both sides on the same day for classes. This is utterly inconceivable. There could be no way out because of unavailability of land, the Education Bureau responded.

Madam President, what was the result then? Parents themselves identified a piece of land. It came to their notice that there was a piece of open land by the side of the new site. In reality, usage had yet to be designated for that piece of land. So parents submitted to the Lands Department the relevant plans. I had discussions with persons like Mr CHEUNG Man-kwong, and found that to be unreasonable. Enquiries were made to the Education Bureau, which said: "Correct, perhaps land is available." This is really outrageous. I then asked the Administration to directly produce a list clearly showing all the sites nearby. It was ultimately noted that several pieces of land were available for consideration. However, after screening and field visits by us, it was found that the piece of land picked by parents was most suitable. There is, however, a carriageway separating that piece of land from the existing school building. So the Education Bureau said that was impossible, adding that there would be a lot of problems, such as traffic. We finally had joint discussions with parents and the relevant bodies, such as the District Council, Education Bureau, Highways Department and Architectural Services Department. It was ultimately decided to build a footbridge linking up the two places. This can be said to be a happy ending, that is, a good outcome or happy finale.

This story reflects folk wisdom. We indeed have to rely on ourselves and the Education Bureau must be prepared to give "heart". The 46 recommendations given in this report of ours are, in my opinion, concrete and noteworthy. This report can definitely be described as a milestone of special education. I am therefore very grateful to the colleagues concerned. For instance, Mr CHEUNG Man-kwong of the education sector has made a lot of contribution here, especially towards special education. Also, there are all the organizations formed by the parents themselves, which have also induced a lot of the reforms.

With these remarks, I call upon Members to support my motion.

Dr Fernando CHEUNG moved the following motion: (Translation)

"That this Council endorses the Report of the Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs, and urges the Government to implement the recommendations therein."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Fernando CHEUNG be passed

SECRETARY FOR EDUCATION (in Cantonese): President, first of all, let me thank the Subcommittee for studying and discussing the relevant topics over the past three years, and also for the many suggestions on seven areas presented in the report.

The HKSAR Government has all along been striving very hard to provide appropriate and proper education to students with special educational needs (SEN) through various measures, such that they can enjoy equal opportunities of education to develop their potentials. Matters to which the Subcommittee attached attention are also issues that the Government has long been studying and addressing proactively. I am going to first outline the Government's policies on issues related to education.

To match the implementation of integrated education (IE) by schools over the past 10-odd years, we have been providing schools with all kinds of additional resources and support. In the report, the Subcommittee presented some specific recommendations on the running of IE. Some of the recommendations have already been brought into effect. For example, substitute teachers are provided to enable schools to release teachers for IE training and publicity on the transfer mechanism for students with SEN has also been stepped up.

Starting from the 2008-2009 school year, we will provide a Learning Support Grant for secondary schools to further assist secondary schools in looking after students with special needs. At the same time, we will also improve the funding arrangement of the New Funding Model for primary

schools. A school admitting students with more severe disabilities can receive at least a basic provision of \$120,000. The ceiling of the Grant of \$550,000 per school per annum will be raised to \$1 million per school. A full-scale implementation of the aforesaid improvements in primary and secondary schools will, according to estimate, additionally cost \$270 million a year.

Over the past 10 years, we have put in a lot of efforts to identify, assess and support students with specific learning difficulties. Here are some examples. The Education Bureau has been in active co-operation with universities, devising and developing a number of instruments of identification and assessment for use at stages ranging from junior primary school to secondary school. With regard to training, our requirement is that each school should have at least one Chinese teacher and one English teacher attending core courses relating to specific learning difficulties.

With regard to the Subcommittee's recommendation that there should be more support for students with specific learning difficulties, we concur in principle. Work in this respect is being carried out step by step. This includes consultation with the Department of Health on the division of labour for the work of assessment, the formation of specialist teams for the monitoring of assessment criteria in respect of dyslexia disorders, enhanced communication with parents, and better dissemination of information for students with SEN.

Special education for non-Chinese-speaking (NCS) students is another concern of the Subcommittee. We encourage NCS children, including children with SEN, to attend public schools. In order that they can have early integration into the local community, they are also encouraged to learn Chinese and English. The Education Bureau provides students with SEN with all sorts of support and resources. NCS students with SEN can at the same time benefit from that.

The New Senior Secondary (NSS) structure for schools of intellectually disabled (ID) children and other special schools is set after public consultation. At present, we are working in collaboration with special schools and tertiary institutions to map out ID children's NSS curriculum and assessment guides. We will increase the number of pilot applied learning courses. Special schools are also encouraged to work in collaboration with other schools to offer diversified NSS courses. To match the NSS structure, we are looking for

resources to carry out projects of improvement and conversion for special schools as soon as possible.

The Subcommittee made a number of recommendations on the boarding service in special schools. We will make adjustments to existing practices according to actual requirements. For instance, when plans for the boarding service in special schools are being formulated on a territory-wide basis, the supply and demand situation in the districts will be given greater consideration. We will actively consider regularly providing updates on the allocation of boarding places on our websites. Also, efforts are being made by us to expedite the projects for the construction of boarding schools in New Territories East and New Territories West.

President, I so submit. I will give a more detailed and specific reply after hearing Members' views.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, I would like to thank Dr Fernando CHEUNG and Members who have joined the Subcommittee for their efforts over the past three years in giving us a series of recommendations and valuable ideas.

Looking after the well-being of persons with disabilities, striving to promote their participation in community activities, and assisting their integration into the community with equal opportunities constitute precisely the overall objective of the Administration's policy on rehabilitation.

The Government all along has been making every effort to meet the needs of persons with disabilities in the education and employment. I am going to speak on the Government's policy on promoting employment opportunities for persons with disabilities.

The Government's policy goals in promoting the employment of persons with disabilities are enhancing their abilities, developing their talents and potentials, and ensuring that there are equal opportunities for them to take up productive and gainful employment in the open job market.

The economy and society of Hong Kong change rapidly and drastically. Just as in the case of the able-bodied, persons with disabilities must, in the light

of the needs of the market, learn different vocational skills so as to enhance their employability and keep abreast of the times. It is at the same time essential for persons with disabilities to maintain a positive and nice work attitude. By taking part in more social functions and cultural and athletic activities, persons with disabilities can enlarge their spheres, improve their self-confidence, and cultivate a positive attitude towards life. Provided that a multi-pronged approach is adopted to get oneself ready, the chances of finding suitable employment can definitely be greatly enhanced.

With regard to improving the employability of persons with disabilities, the Government, working through the Skills Centres of the Vocational Council, the Employees' Retraining Scheme of the Employees' Retraining Board, and the Integrated Vocational Training Centres, Sheltered Workshops, Supported Employment Service, Integrated Vocational Rehabilitation Services Centres of the Social Welfare Department (SWD), seeks to equip persons with disabilities with the work and communication skills required for job application in the open market.

Regarding job search services, the Labour Department (LD) and SWD operate job placement services and special projects to help persons with disabilities look for suitable employment and encourage employers to hire persons with disabilities. Among all these, the Selective Placement Division of the LD provides employers and persons with disabilities with one-stop recruitment service, including arrangements for job matching and referral, and post-placement follow-up. The "Enhancing Employment of People with Disabilities Through Small Enterprise" Project of the SWD helps persons with disabilities get employment by setting up social enterprises. In addition, the SWD also runs the "Sunnyway" project for the training of young people and programmes for on-the-job training of persons with disabilities. These provide persons with disabilities with on-the-job training and job trial opportunities. All these services have proved to be effective in assisting persons with disabilities in looking for employment. For instance, in 2007 the Selective Placement Division of the LD provided job matching service to 3 666 persons with disabilities and successfully helped 2 169 of them find employment, representing a placement rate of 71.4%.

Support from employers and the public is absolutely essential for the above-mentioned job placement services to achieve good results. Persons with

disabilities can prove themselves to be very competent in many kinds of work provided that employers nurture a culture of acceptance and respect in the workplace.

We understand that it is likely for some of the persons with disabilities to encounter all sorts of problems after placement, such as a lack of self-confidence, inability to communicate with others, and lack of personal connections. The continued support services available from social service organizations, such as training in areas like job-related skills, communication skills and self-confidence enhancement, provide assistance by precisely targeting the difficulties of persons with disabilities in this respect.

It is sincerely hoped that all quarters, including the business sector, social services sector, districts and the general public, can work in concert with the Government to foster the culture so as to let persons with disabilities have more opportunities to prove their competence. The LD, SWD and welfare organizations are only too willing to provide recruitment support service to employers. Finally, I have to emphasize this. To help the real integration of persons with disabilities into the community, we need concerted efforts by all sectors of the community. This is to enable persons with disabilities to achieve self-reliance and jointly make contribution to society like other members of the public.

Madam President, I so submit. I will make further reply after hearing Members' views on the topic. Thank you.

MR CHEUNG MAN-KWONG (in Cantonese): President, I am very grateful to the Subcommittee led by Dr Fernando CHEUNG for compiling the report on issues relating to the provision of boarding places, senior secondary education and employment opportunities for children with special educational needs (SEN). It took three years to compile the report. The Subcommittee altogether convened 28 meetings, hearing countless opinions, and ultimately arrived at 46 recommendations. It is a rare masterpiece produced by the Legislative Council.

Clearance has been obtained from Dr Fernando CHEUNG that only one point needed to be added to the report, namely, no mention has been made of reducing the class size and enhancing personal care for students in special schools. Over the 10 years since the reunification, members of the education sector have been championing small-class teaching. Primary and secondary

schools have finally managed to achieve something. However, in the case of special schools, they are still what they usually are, with the class size remaining unchanged for more than 30 years. This is serious oversight and discrimination, a mistake that the Government must face squarely.

Only when the minimum class size of a small class in a primary school was lowered to 16 students did the Education Bureau release balloons spreading news that the size of every class in a school for mildly intellectually disabled students was to be lowered to 15. However, in the case of schools for moderately intellectually disabled students, it is 10 students per class. In schools for severely intellectually disabled students, it is eight students per class. As for schools for students with visual or hearing impairment, or physical disabilities, and home-schools, there is no change in class size. This brings great disappointment to school principals, teachers and parents. Their students are just like children abandoned by education, there being nowhere for them to turn to for their sufferings.

As a matter of fact, under the category of the so-called moderate intellectual disability are cases of autism, hyperactivity disorder, violent behaviour, self-mutilating behaviour, hearing impairment, visual impairment, epileptic, and cerebral palsy, and so on. It is possible for one single student to manifest several disorders and needs. Even the Government also admits that in the case of schools for those moderately intellectually disabled, the situation regarding all the disabilities is more complicated than what it was before. The range of dissimilarity among students has extended. What is more, mixed with them are severely retarded students, too. The situation is most serious in schools for the visually impaired.

First of all, let there be no mention of the pressure from all sorts of education reforms. Given the communication problem and disparity amidst teaching, it is already very exhausting for teachers dealing with the matters. However, in the case of schools for students moderately intellectually disabled, there is a dearth of supporting staff, with no teaching assistants, no occupational therapists, and no physiotherapists. With teachers having to play many roles, there is impact on the quality of teaching due to professional burn-out.

Try to picture this. A student with self-mutilating behaviour is likely to suddenly inflict injury on himself. A student suffering from autism may go violent and harm fellow students. When it is time for extra-curricular activities, among the students are those suffering from autism, those with hyperactivity

disorder, those with violent behavioural problem or those physically frail. Each is a hard nut to crack. There can be accidents at any moment unless the teacher was a Guan Yin with a thousand hands. Granting that luckily nothing goes wrong with the students and that teaching can indeed take place, a teacher teaching 10 students in a 40-minute session can only teach a student individually for four minutes. For the teacher, this is tough. For the students, this is lamentable. Is this the scene of teaching that we are going after?

Severe intellectual disability has, in one bundle, all the disorders of intellectual disability. There can be cases of great severity constantly on the brink of hospitalization. Some students are lamentably drifting between hospital and school, with their limited learning, therapies and lives just dragging on. These poor kids have immeasurable difficulty even in swallowing or drinking. In recent years, schools have additionally admitted some students each bearing a gastrostomy, that is, a surgical opening made on the belly for feeding purposes. With the said opening connected to a plastic tube, food is pumped into the body by means of injection. Feeding has to be frequent but brooks no haste. Each student has to have five to six meals at school daily. Each feeding may take approximately 20 minutes. Such students also cannot drink water directly. When they have to drink water, it is necessary to first add solidification powder to solidify the water. Only then can it be drunk. It takes 20 minutes for a student to drink a cup of water. In the face of such heavy demand for personal care, the Education Bureau not only refuses to reduce class size but even rub the wound with salt. Being special schools, they get no funding for integrated education. Yet the Administration put an end to the insubstantial development grant, forcing the schools to lay off teaching assistants and health care workers, and ultimately jeopardizing students' interests.

Nevertheless, schools for severely intellectually disabled students still have to overcome every obstacle to get the students to learn basic knowledge and abilities. Most students with severe intellectual disability have cerebral disorders, which extensively affect their limbs, sight, hearing and other senses as well as their speech, comprehension and the ability of expression. Given all the mental and physical obstacles, they learn by relying on the little intelligence, senses and physical strength that they are left with. Meticulous adjustment and assistance by the teachers are required. It takes time for them to make every effort to digest. This, a scene of struggles, encouragement, patience and expectations, means interaction between students and teachers. To reduce class size is an indispensable condition for learning.

Try to picture this. Even a genius like Stephen William HAWKING takes a long time to say a sentence through a voice synthesizer. What then in the case of children severely intellectually disabled? HAWKING is a genius in science. So, people are prepared to listen patiently. Regarding those students with severe intellectual disability, I wonder who is prepared to listen patiently to the hopes lying deep in their hearts. Who is prepared to heed, with patience, the aspirations put forward by school principals and teachers on their behalf? These days, when we are applauding the cut in class size in primary and secondary schools, who is prepared to strive for a respectable and promising learning opportunity for these kids, the ones disabled and forgotten?

Today, I am prepared to put to Members, with all sincerity and strength, a very humble request regarding special schools, namely, to reduce the size of every class, retain the development grant with a time limit, and let there be more teachers and supporting staff so as to provide the children with a better learning environment.

President, I so submit.

MS LI FUNG-YING (in Cantonese): Madam President, I am not a member of the Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs (SEN). I, however, still would like to say a few words about my observation with regard to services for children with SEN. In the course of my day-to-day work, I often come into contact with grass-roots parents who are in need of the relevant services. Shouldering the heavy burden imposed on them by fate, they are busy running about for their daily bread and also toiling for their children's special needs. They are unable to find community support. Nor do they know how to find community support. There is no way out in sight in the immense sea of persons.

Care and encouragement are key ingredients in all services that are for the people. This is of even greater importance in the case of families having children with SEN. Care and encouragement do not just mean that there are schools admitting children with SEN. What matters more is the establishment of steady and regular communication with parents by the schools (whether ordinary schools under the integrated education programme or special schools) to understand the problems facing the parents and help the students to grow by working with the parents. To the parents of many grass-roots families, this is

something that they are looking forward to most eagerly. With regard to the section on parent and school co-operation in the report, the Government has only undertaken to request schools to report the students' progress in a more standardized manner on Parents' Day or on other suitable occasions. Parents' Day is already an occasion providing standardized communication between schools and parents. This requires no further undertaking by the Government. How, on top of Parents' Day, does school regularly communicate with parents to help parents provide kids with guidance as they grow up? The undertaking should be on this.

Secondly, the fact that children with SEN ultimately must leave schools constitutes a great worry to their parents. In the case of students with disabilities, graduation does not mean unemployment to most of them. Instead, graduation means losing cover or having nowhere to go. Given this, the pressure on parents looking after them mounts. Just as pointed out in Chapter VI "Employment Opportunities for Persons with Disabilities" of the Subcommittee's Report, the employment of persons with disabilities by government-subsidized organizations (GSOs) and statutory bodies was very disappointing. There are only 3 000 disabled civil servants, representing 2.1% of the strength of the Civil Service. I know not the situation of hiring of persons with disabilities by the Legislative Council. In the event that this Council does adopt the report of today, then while we call upon the public and private sectors to let persons with disabilities have employment opportunities, this Council should also exert a greater effort on the employment of persons with disabilities.

The report makes mention of using punitive measures to get GSOs and statutory bodies to hire persons with disabilities. Such an approach is not desirable. Pursuant to the report's recommendation on examining the viability of offering tax incentives to the private sector and use rewards to encourage the hiring of persons with disabilities by different organizations, I, however, think the Government may, on top of the existing lump sum subvention, make another grant to financially assist organizations in hiring a certain number of persons with disabilities.

I am much surprised by one point in the report, namely, that throughout Hong Kong, there are currently only two special schools with boarding sections which, altogether, provide 170 boarding places. Yet not all of these boarding places are filled. With regard to boarding places at our special schools, it appears on the surface that supply surpasses demand. Well, as far as the

actuality is concerned, this is a great irony. Many of the parents with whom I have contact do want to make arrangements for their disabled children to be boarded. What leads to the false impression that the situation of boarding places at special schools is one of supply exceeding demand? It is that layers of barriers have been imposed for applications for those boarding places. Added to this is that parents are not allowed to make applications direct. There have got to be referrals by organizations. Just because of this barrier, most of the parents in need of such service are shut out. Next, after getting a referral by an organization, one must still satisfy some very harsh requirements, such as homelessness or evidence of abuse. Only then will the Education Bureau arrange for boarding.

Madam President, I understand that, on account of limited resources, the Government, in dealing with parents wishing to get boarding places for their children with SEN, cannot satisfy the wish of everybody. However, I have noted that in the case of parents of some grass-roots families, they have to toil for their daily bread and, at the same time, devote much time and effort to looking after their disabled children. This exhausts them both physically and mentally. Though most parents do not complain or show resentment, I, on seeing them carrying this heavy burden indefinitely day after day, really hope that society can give them a break, even just a shoulder to take over their burden for a while. Is it possible for the Government to allocate, as something on top of the recommendations given in the report of the Subcommittee, resources to give every local disabled child an opportunity annually to stay in a boarding school for a few days? These few days of boarding can, on the one hand, serve as extra-curricular activity days for disabled children. At the same time, they can let parents with such need have a "breathing spell". If the Government cannot afford the resources needed to have each disabled child sent to a boarding school for a few days annually, then make it once every two years or longer. This can serve to give expression to society's care for families with disabled children. I hope the Government will consider this suggestion.

Madam President, I so submit.

MR BERNARD CHAN: Madam President, compared with many developed economies, Hong Kong is probably lagging behind in looking after children with special educational needs. The ideal approach is to integrate these children as far as possible into the regular education system. But these trained teachers, supervisors and parents need support on how to bring up these children at home.

In some cases, integration is not possible, in which case, special residential or day schooling is needed. Again, this requires highly trained staff and support for parents. If it is successful, however, it can be possible for a child to transfer into the mainstream system.

The Subcommittee's Report made some valuable recommendations. These cover areas like funding methods to help schools to specialize in teaching children with particular needs, ways to help students' transfer between special institutions and mainstream schools, improving feedback from schools to parents of children with special learning disorders, encouraging special and mainstream schools to co-operate more closely, providing more funding to the ESF schools to tackle the problems faced by non-Chinese speaking children with special needs, reviewing the whole provision of boarding places for children who need them, and encouraging the Government and private employers to offer more opportunities for people with disabilities.

In most cases, we are not talking about major increases in budgets. Improving education for children with special needs helps them to become productive citizens. Funds that achieve this can be seen as an investment. I urge the Administration to examine the Report very carefully. Thank you.

DR YEUNG SUM (in Cantonese): Madam President, the new academic structure for senior secondary education and higher education will be implemented in the 2009-2010 school year. Under the new academic structure, physically disabled (PD) students and hearing impaired (HI) students will be provided with 10 years of basic education composed of six years primary and four years junior secondary, but intellectually disabled (ID) students will only get nine years, that is, six years primary and three years junior secondary. Such disparity in treatment is unfair to ID students. The Government points out in the report, I quote: "As for the ID students, they will be provided with individualized education programme tailored by teachers in special schools. ID students who are unable to pursue the ordinary curriculum will not go through new senior secondary structure (NSS) assessments and examinations leading to the Hong Kong Diploma of Secondary Education." End of quote. I hope the Secretary is aware of such disparity in treatment.

As for learning, Madam President, this is a very strange situation. There is considerable disparity in learning among ID students. So, it is necessary for those teaching at special schools to carefully set disparate learning goals for

individual students according to their different requirements and make appropriate adjustments to the contents of instruction. It is not easy for teachers to cater to the disparate needs of students. Picture this. It is likely to be necessary for a teacher to prepare different sets of teaching materials and assignments to cater to students' needs. It is apparent that as each ID student's learning requirements and progress are different, it is very difficult to gradually develop their potential. So, in all sensibilities, the length of basic education required by ID students ought to be longer than that of students with normal intelligence. This is to ensure that they can obtain sufficient education step by step so that they can adapt to changes in society in the future. However, the Government holds that the duration of basic education accessible by ID students can even be shorter than that of PD or HI students. This is not acceptable. The Democratic Party, therefore, supports the Subcommittee's recommendation on providing ID students with at least 10 years of basic education as in the case of HI and PD students.

Surely, besides the number of years of schooling, syllabus planning and the subjects should also be given attention. To fit the learning needs of different students, the NSS programme also offers applied learning courses. We understand that because of the limitation of resources, the applied learning courses that students with SEN may choose are fewer than those available in mainstream schools. Nevertheless, the Government must still make every effort to collaborate with the agencies in examining the provision of more diversified applied learning courses to students with SEN and determine the feasibility. In my opinion, small-class teaching mentioned by Mr CHEUNG Man-kwong just now must be put into effect in special education.

Turning now to boarding places, Madam President, parents of persons with disabilities are very concerned about the boarding arrangements for their children. In the case of ordinary people, the joy of family life comes from living with the kids. However, the Subcommittee has interviewed parents of many persons with disabilities and noted that they are very keen to make early arrangements to have their children boarded. The task of looking after PD children is in fact very tough. As the children incessantly gain height and weight, their parents also age as time goes by. Because of the need to look after grown-up children, parents often lose their balance or twist themselves, which is indicative of the difficulty or the frustration of the will by physical weakness being experienced by parents looking after PD children. According to some seniors, they are gradually ageing and yet they have to look after PD children. They have a great worry, wondering who will look after their middle-aged PD

children once they pass away. On the other hand, to be able to live in groups on becoming boarders may enhance the learning skills of persons with disabilities. This shows how important and critical boarding places are to persons with disabilities and their parents. We understand that both Hong Kong Island and the New Territories have a mis-match of boarding places. In this respect, there is an acute shortage of boarding places in the New Territories. The Government is going to build two new dormitories, one in New Territories East and one in New Territories West. Each is to provide 60 boarding places. With reference to the dormitory in New Territories West, the Subcommittee, the school management and parents are all looking forward to having the primary school section and the dormitory relocated to a site large enough to accommodate both of them for effective management and deployment of staff. They hope the Administration can expeditiously complete the process of relocating the said school to enable its early operation of the boarding section and thus solve the problem of excessively long waiting time for boarding places in that district.

Besides, the Administration, at the request of the Subcommittee, filled the gap on residential respite service for persons with disabilities under 15. The Government's readiness to follow good advice was applauded by the parents and the Subcommittee. At the same time, we hope the Administration can set a larger quota for such respite service so as to serve more persons with disabilities under 15.

Regarding employment, Madam President, with regard to students with SEN, their career prospect after leaving school also warrants our attention. According to the report of the Subcommittee, during the three years between 2004 and 2007, the Marketing Consultancy Office (Rehabilitation) under the Social Welfare Department, on average, helped them to secure every month just one full-time job, 0.5 part-time job, and job orders and tender contracts with a total value of about \$1.1 million. The performance is most disappointing. The Government being the biggest employer in Hong Kong — I repeat, the biggest employer in Hong Kong — should take the lead in hiring more persons with disabilities. This applies especially to government-subsidized organizations. They, too, are duty-bound to achieve, in stages, the target of filling 2% of their posts with persons with disabilities so as to set a good example. With regard to the private sector, the Subcommittee made in the report the recommendation that the Government provide tax incentives to encourage employers to hire more persons with disabilities. As a matter of fact, employers can already enjoy deduction of money spent on employees. Well, if the Government can give employers hiring persons with disabilities even

more generous tax concessions, employers are definitely going to find it encouraging. In addition, the provision of tax incentives will not generate too much administrative work for the Government. So, the Government should actively consider offering tax incentives to promote the hiring of persons with disabilities and assist their integration into the community. Thank you, Madam President.

MR LEE CHEUK-YAN (in Cantonese): President, I was deeply impressed by the frequent presentation of views to the Subcommittee by deputations and parents. I sometimes felt very painful, Secretary. Though already heavily encumbered by the need to look after their children, on each occasion they still made long arduous journeys to the Legislative Council day after day to express their aspirations.

Secretary, they are disappointed in the Government. President, despite the repeated representatives, many issues still cannot achieve any breakthrough and have yet to be solved fully. I am certainly also aware that in some areas the Government has made some adjustments or improvements. However, some major issues still remain unsolved.

The first major issue yet to be solved is employment. It was pointed out by the Secretary earlier on that the Selective Placement Division had helped many persons with disabilities find employment. However, in the case of these parents and students with special educational needs (SEN), graduation means unemployment or idle stay at home. There is a waiting list even for jobs in sheltered workshops. We all know that even if positions are available at sheltered workshops, jobs there are in fact not desirable. Nevertheless, there is at least company. The waiting time for admission to a sheltered workshop is at least one year.

Therefore, I think that as far as all the students with SEN are concerned, every effort should be made to get them immediate employment or job training once they have completed schooling. In order that they can spend more time in schools, the schools should in fact work harder on job training. After listening to the aspirations of parents, we come to know the crux of the controversy surrounding the entire education structure. It is that parents want their children to stay in schools longer so that even if they cannot make it to senior secondary, or take part in open examinations and get good results, they can still be given more opportunities to learn more skills as their ability allows before going out

into society. First, we hope that, insofar as education is concerned, they can be given more time to learn more job skills. Next, let there be no waiting time for admission to sheltered workshops even though sheltered workshops are, as already pointed out by me, not desirable. Finally, it is hoped that they can secure employment in the open market.

With regard to employment in the open market, we have put forward quite a few methods. However, the Government so far has not been able to achieve one thing. Here is the one thing that I think the Government should do immediately — our Subcommittee already made a recommendation on that and considered that to be easiest — that is, on how to make the Government financially help government-subsvented organizations hire persons with disabilities.

Every year we would raise the issue with the Government, asking the Government to look into the situation of subvented organizations. It just keeps handing in a blank report. It is still like that now. Let me cite some figures. According to a survey conducted in December 2007, of the 272 GSOs and statutory bodies, 201 responded. Of these, only 64 organizations had formulated policies and procedures regarding employment of persons with disabilities. Honestly, these 32% have only policies and procedures regarding employment of persons with disabilities. There is no mention of the ultimate result. This already leaves much to be desired. However, judging from the figure, it looks not bad. 30% of the organizations have policies on this. However, the fact that there are policies does not mean that there is effect. Also, 13 organizations — which are more pragmatic — had set up an employment indicator of 2% on average. There is no problem once there is an indicator.

However, please give this a little more thought. Of the 200-odd organizations, only 13, or 6%, have indicators. Is that not a little too low? These are social service organizations subsidized by public money. We, holding that enterprises should have social responsibility, ask the business sector to hire more persons with disabilities. I wonder how we can possibly put such a request to the business sector when it is not even sure that the Government's own organizations can achieve this target of 2%.

Besides, 17 organizations have shown transparency in their annual reports, by giving statistical figures. Although transparency does not necessarily mean good performance, at least there is transparency. Nevertheless, picture this.

What do we need? To have an indicator is most important, for it can show what has been achieved. However, there is no clear policy promoting the organizations to formulate indicators.

Secretary, let us be realistic. What we ask for is not much. During our discussions, it was suggested that the target of 2% should be reached in three years. It has been accepted by all — three years — it is in fact very fair to give the organizations three years' time, and a request asking for 2% is not much. That is to say, there are to be four persons for every 200 persons. Is it impossible even to hire four persons? It is not that difficult, is it? So, Secretary, I hope you can do this, which is entirely within your capabilities.

However, let me put it frankly, Secretary. Even if you can do this, we are now talking about taking the lead. This is still not achievable in a big ocean. What is it like in a big ocean? We have made two suggestions, but you are prepared to work on none of them. The first one is employment quota. I have been advocating this employment quota since the time I joined a joint conference on the employment of persons with disabilities some 20 years ago. The Government, however, is still saying no, often claiming that it does not work even in foreign countries that have set up employment quotas. In what way does it not work? It has not explained. However, people have told us that in fact it works. Organizations unwilling to hire persons with disabilities have to pay money to a fund for the training of persons with disabilities. I wonder why it does not work.

The second one is on providing tax concessions. However, the Government also says no. In fact, in the ocean — in the business sector — no matter how the Selective Placement Division helps these people, it is useless because there is no policy to give the real push. The situation will be much better if there can be a solution to the employment issue.

President, finally I would like to speak on respite service again. In my opinion, there is no justification for the Education Bureau not to work on that. At present, respite service is under the care of subvented social welfare organizations. However, they have all along looked after adults only, those aged 15 or over. Now, because of the need for respite service, those aged under 15 are placed under their care, and they have to make do with that. Such an approach is mentally unsettling to parents. The organizations are also not used to it. In fact the schools have been providing such service. Why not let schools do it? This is the Government's usual practice. It has been one of

passing responsibility from one party to another party right from the start. It has been passed to the Social Welfare Department on the pretext that it does not come under the scope of education. Nevertheless, the Government should co-ordinate the work of all different quarters. We hope the Education Bureau can make improvements in this respect.

Thank you, President.

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

MR ABRAHAM SHEK: Madam President, I would like to thank members of the Subcommittee who contributed to this Report, which highlights the issues relating to children with special educational needs (SEN). For the rest of my speech, I will concentrate on the non-Chinese speaking (NCS) children with SEN.

As Asia's World City and a renowned metropolis, Hong Kong has attracted many expatriates who have settled here with their families as they seek to further their careers. One might expect that the higher the number of expatriates, the more facilities would be available for the NCS children with SEN. Unfortunately, there is increasing criticism about the unfair and inadequate support for these children.

For the NCS children with SEN, the English Schools Foundation (ESF) is the largest education provider in Hong Kong. It is a known fact that higher costs are incurred for providing education to a student with SEN than a student in a mainstream class. According to the ESF, the government subvention for providing education for SEN students in supporting classes in ESF schools is about 4.6 and 5.4 times than that of students in the ordinary primary and secondary classes respectively. It is wishful thinking to imagine that the ESF will continue to provide resources to increase their support for these students without the support of the Government, even though the Government has made an additional provision of a mere \$2 million to the ESF per annum since 2007, so as to help it enhance such services in order to meet the demand. The ESF has accordingly provided additional learning support classes in three of its primary schools using the additional provision. Nevertheless, the increased resources still fall short of the strong demand. Currently, the waiting time is 24 to 36

months for a place in the ESF's learning support classes (126 places) and The Jockey Club Sarah Roe School (60 places). As a result, the ESF has emphasized that any increase in the cost of operating ESF schools will have to be borne by either the Government through higher subventions, or parents through higher school fees. Recently, the ESF proposed raising school fees this September by 5% in its primary schools and 7% in its secondary schools, which triggered strong opposition from parents and rightly so. To shorten the waiting time for NCS children, I support the Report's recommendation that the Administration should increase funding to ESF to enable it to provide more learning support classes in its mainstream schools and more places in The Jockey Club Sarah Roe School, given that it is the only English-speaking school that admits NCS children with SEN who are not suitable for admission to mainstream schools.

Apart from the ESF funding, the Report also recommends that the Government should review its policy on the provision of education for NCS children. At present, support to NCS children with SEN is very limited. Sir Ellis Kadoorie Primary School, Li Cheng Uk Government Primary School, Islamic Primary School, Yaumati Kaifong Association School, the Hong Kong Taoist Association School and Sir Ellis Kadoorie Secondary School are the few government-subsidized or Direct Subsidy Scheme primary and secondary schools which use English as the medium of instruction and provide remedial teaching services for the English-speaking students with learning difficulties. The Government should make regular reviews of the amount of subsidies provided, and lobby more schools to admit NCS children with SEN to meet the demand.

Madam President, international schools play an important role in supporting NCS children with SEN. The Administration's approach of not to micro-manage international schools in their policy of NCS students with SEN has no bearing on its co-operation with international schools to maximize support to these students. Without interfering in their school policies, much can still be done, such as sharing skills and experience among staff members of NCS children with different SEN, and collaboration in school activities, for example. Since many international schools have selective admission policies, the Government should also assure that NCS children with SEN are not discriminated against in any way. In this matter, the Government's responsibility is clear.

Madam President, from cradle to puberty, every child experiences challenges. Children with SEN, however, often experience additional challenges in study and work, as well as difficulties in integrating into mainstream schools. It is not only a virtue, but also a moral obligation on the part of the Government to exercise due diligence to help these children maximize their full potentials, so that they can contribute, rather than becoming a burden to society. They have the right like any other children. I urge the Government to carefully consider the 46 recommendations of the Subcommittee, and to ensure that the needs of children with SEN are fully met, leaving no one behind. Thank you, Madam President.

MRS SELINA CHOW (in Cantonese): President, excuse me, I cannot find my microphone.

President, children with special educational needs (SEN) do not just denote those with physical and intellectual disabilities. They often include those long erroneously identified as problem students who are stupid, lazy or difficult. However, often among these students with SEN not too obvious are some very gifted or talented individuals. They are ignored, not given timely treatment only because their symptoms are not obvious.

For example, some time ago, a TV station interviewed a psychiatrist, who often failed in subjects like dictation and composition when he was a child and who only learned of his own dyslexia disorders on becoming a physician. Another example is Stephen WILTSHIRE, the British painter referred to as the human camera. Though suffering from autism, he was able to draw aerial views of cities like Hong Kong and Rome from memory.

We can see that unless these kids are identified in time and given support, the opportunities to groom them are very likely to slip away. This is not going to be a loss just to the society. What is more, it is very unfortunate and unfair to them as well as to their families.

So, the Liberal Party supports most of the recommendations made by the Subcommittee in the report. We also think that the Administration is in a position to do more. Take an example. With regard to financial resources, the New Funding Model (NFM) is undoubtedly more flexible. Under the old Integrated Education (IE) Programme, a school gets one additional teacher on

admitting five IE students, and one teaching assistant on admitting eight IE students. Under the new arrangement, the funding rate for students with SEN will be \$10,000 per person. For the more severe cases, it will be \$20,000 per person. For each school, the maximum amount of funding will be increased from the existing \$550,000 to \$1 million. This will give the schools more flexibility in dealing with students with SEN. Nevertheless, in the opinion of some front-line teaching staff, the new arrangement is inferior to the old.

In particular, according to the feedback of quite a few front-line teachers, children suffering from autism or hyperactivity disorders are emotionally or behaviourally more problematic, and may, in varying degrees, affect classroom management and fellow students. For follow-ups, more resources are required. However, the manpower under the new arrangement will be likely to be less than what it is under the old arrangement. We, therefore, hold that the Administration should make sure that under the NFM there can be more resources for schools admitting students with more serious problems so that the students can get better care.

Surely, it is not possible to solve all the problems with money only. It is also very important to have teachers equipped with adequate expertise and experience.

As we all know, the workloads on teachers are already very heavy, particularly so with the imminent implementation of the "334" new academic structure. There are bound to be more senior secondary students. There will be quite a few new subjects, too. In the case of many teachers, workloads and pressure will just be growing. So, there should be better support from the Administration in providing substitute teachers. Also, active consideration should be given to allowing schools to confine admission to one or two types of SEN. This can also make it possible for schools and teachers to have more specialized division of labour, and thus reduce the pressure on schools and teachers.

Now on identification, I once raised queries, wondering if there was something wrong with the Administration's assessment. The reason is that The Ombudsman's Report of last year pointed out that just in the case of dyslexia disorders, the incidence rate abroad ranged from 1.3% to 8% whilst the figure of Hong Kong was below 0.43%. This is indeed questionable. In order that we

can have clearer and more comprehensive data for formulation of long-term strategies, the Administration should expeditiously review the assessment criteria and speed up the assessment.

In our opinion, parents best understand the needs of their children with SEN. Schools, therefore, should maintain a close partnership with parents. For instance, there should be enhanced co-operation and communication between the two parties in matters like the children's study programmes or evaluation throughout the course. Only in this way can programmes fitting the learning needs of individual students with SEN be formulated.

Turning now to their job placement, at meetings of the Subcommittee, I raised the point that the Administration should develop social enterprises and provide incentives giving both public and private sectors the urge to hire persons with disabilities. The Liberal Party has all along advocated the offer of tax concessions by the Government to encourage more private enterprises to hire more persons with disabilities so long as that is not beyond them. However, there should be no mandatory employment quota.

President, in recent years, we have received from many expatriate parents the complaint about the difficulty being experienced by them on coming here for work in finding suitable schools for their children with SEN. Even if that is available, the waiting time can be as long as two or three years. This, in fact, in a way drains Hong Kong of expatriate talents. In the long run, it is also pernicious to our reputation abroad. The Administration should pay attention to this and make improvement.

According to the report, it is necessary to expedite the building of dormitories for special schools. We agree, especially with regard to the New Territories, where parents have, for years, been anxiously waiting for the provision of boarding places by their local special schools. Although the Government has already started works on the dormitories of the two schools in Tai Po and Tuen Mun, the projects will not be completed until 2011. It is hoped that the Administration can speed it up or carry out conversion by making use of vacant school buildings so as to increase the supply expeditiously.

Finally, it is believed that not even school children and school teachers can adequately understand students with SEN; neither can ordinary citizens. The

Administration should, therefore, make greater efforts to promote civic education so as to give full play to Integrated Education.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Education to speak for the second time.

SECRETARY FOR EDUCATION (in Cantonese): President, first, here let me sincerely thank Members for their valuable opinions and suggestions. Next, I am going to make some specific responses to the recommendations on education contained in the report.

As stated in my first speech, many of the recommendations made by the Subcommittee are, as far as direction is concerned, in line with our policies. We will continue to make the relevant measures better. However, with regard to a few of the recommendations made by the Subcommittee, they either pose real problems in actual implementation or are not in accord with our policies. We are afraid it is not possible to accept those recommendations right away.

Integrated Education [Recommendations (1)-(7)]

The Subcommittee suggested that each school on the Integrated Education (IE) Programme admit students mainly with one to two specified types of special educational needs (SEN). The Education Bureau too has explored its feasibility. Nevertheless, such an arrangement is not necessarily practicable in actual operation. Ever since 2006, when the Education Bureau first adopted the New Funding Model (NFM) to support the implementation of IE by primary schools, more and more primary schools have accumulated the experience of looking after students suffering from autism and attention deficiency/hyperactivity disorder. The outcome has been quite good. At the same time, however, these schools have also expressed a worry. Because of the

outstanding outcome, more similar students have been attracted. As a result, there is an over-concentration of similar students, which thus renders integration impossible. In addition, some schools have indicated to us their repudiation of any development in that direction, their inclination being the development of teachers' expertise for the support of students with different SEN on the basis of district-based school network and in the light of the school-based situation. To make it easier for parents to choose schools, we will continue to encourage schools to state, on the documents intended for use by parents choosing schools, their experience or disposition with regard to the admission or handling of students with certain types of SEN.

Education for students with specific learning difficulties [Recommendations (8)-(12)]

With regard to the assessment and arrangement needed to be done for students with specific learning difficulties (SpLD), there is already a consensus between the Education Bureau and the Department of Health (DH). Regarding cases of students with learning problems, the Bureau will be responsible for their assessment, while the DH will be responsible for the assessment of cases of multiple developmental problems. The two departments have already formulated the relevant procedures for implementation in the school year 2008-2009. Generally speaking, Educational Psychologists of the Bureau will, on receiving referrals from the schools, provide assessment service as required by the students within six months. In the meantime, appropriate support will be given to these students, the ones seemingly suffering from SpLD.

A specialist group formed by representatives from the Education Bureau, DH and tertiary institutions has already completed the task of reviewing the assessment criteria in respect of dyslexia disorders, in the course of which overseas experts were invited to give advice. In the opinion of the specialist group, the existing assessment instruments and criteria are, basically, in line with international standards. It is believed that a report will soon be submitted to the Bureau and DH.

As for assessment reports on students with SpLD, ever since September 2007, the Education Bureau has been providing copies of the assessment summaries to parents for them to tie in with the support service. To ensure that students with SEN can get suitable support as soon as possible on being transferred to other schools, the Bureau has made improvements to the

procedures used to transfer data of students, and issued to all primary and secondary schools in Hong Kong circular letters elucidating the said arrangement. Primary schools have also been particularly reminded to expeditiously seek consent from parents and then forward, as soon as possible, information on Primary 6 students with SEN to the secondary schools to which the students will be promoted.

We seek, by different means, including the publication of the Guide on Integrated Education, to make it possible for schools and parents to understand among themselves their respective roles and duties in implementing IE. We encourage schools, apart from reporting to parents the progress of students, to have discussions with them about the ways to support the students, or even train the parents to help the schools carry out parts of the support programmes.

Non-Chinese-speaking students with SEN [Recommendations (15)-(16)]

The additional assistance and support given by us to Chinese-speaking students with SEN are likewise being accorded to non-Chinese-speaking (NCS) students. For both local and NCS students, the extra resources are being shared out on the basis of a three-tier intervention model. The difference between NCS children and local children in learning is mainly on cultural background and the use of words in writing and speech. These can all be overcome by means of suitable adjustments. As a matter of fact, there have been quite a few examples in which schools help NCS students with SEN by flexibly making use of the Learning Support Grant.

In the case of NCS students with SEN, apart from the aforesaid arrangement that makes available to them schooling in public sector schools, there are in fact some other options of schooling. Now Hong Kong has 15 schools operated by the English Schools Foundation (ESF), and 38 private international schools, giving NCS students choices in media of instruction as well as in courses.

The ESF runs a special school and also makes available to NCS students with SEN in their secondary and primary schools a number of learning support classes. To enable the ESF to better cater to the demands of students with SEN already put on the waiting list of their schools, the Education Bureau has been giving an extra grant to the ESF since the school year of 2006-2007 for the operation of additional learning support classes. At present, we are exploring

the possibility of providing this type of students of the ESF with further additional school places and support.

Regarding private international schools, these schools provide parents with options. They are self-financing. However, like ESF schools, they should provide equal opportunities for all students in terms of student admission, teaching curriculum and assessment.

New Senior Secondary (NSS) and Higher Education Academic Structure [Recommendations (17)-(25)]

The recommendation of the Subcommittee is for the Government to provide intellectually disabled (ID) students with 10 years of basic education. In the case of ordinary students, the basic education and senior secondary education under the new senior secondary (NSS) academic structure are nine years and three years respectively. Physically disabled (PD) students and hearing impaired (HI) students studying at special schools with a view to moving onto mainstream three-year senior secondary programme will particularly receive 10 years of basic education. The main reason being that, in the case of PD students, their learning is frequently disrupted by regular therapies, medical consultations or hospitalization whilst HI students are slow at learning and developing language skills on account of severe to profound hearing impairment. We, therefore, suggested that the students concerned be given one additional year of basic education so as to better prepare them for promotion to the three-year senior secondary education leading to the Hong Kong Diploma of Secondary Education (HKDSE) Examination. As for ID students, they will have their study goals and progress set by individualized education programmes, but will not study mainstream courses under the NSS or sit for the HKDSE Examination. So, there is no justification for one additional year of basic education. They are likewise entitled to nine years of basic education and three years of NSS education.

The objective of NSS (ID) curriculum is to enable students with SEN to bring their abilities into full play, and enhance their adaptability as well as independence so as to ultimately turn them into contributing members of the community. This is in line with Subcommittee's recommendation. Since 2006, the Education Bureau has, by means of all sorts of professional training, clearly explaining to schools the objective of NSS (ID) curriculum so that teachers can understand and master the ways to make appropriate adjustments to

course plans through course adjustment to help students achieve the aforesaid learning goal.

Applied Learning (ApL) curriculum is one of the key elements of the NSS curriculum. Ever since the 2006-2007 school year, the Education Bureau has been offering adjusted pilot ApL courses to students to enable them to acquire the knowledge, skills and requirements needed for certain employment, reinforce their learning with job-related experience, and lay the foundation for their future learning and employment. We are going to review the entire pilot scheme in the school year of 2009-2010. Also, there will be further co-operation with organizations providing all the different courses so that there can be a greater availability of diversified ApL courses compatible with ID students' capability and interest.

Regarding higher education, at present, institutions funded by the University Grants Committee (UGC) are providing students with SEN with all sorts of support and assistance, including advisory and counselling services for matters relating to admission applications, provision of special transport facilities, dormitories and learning equipment, special examination arrangements and priority to get boarding places. The institutions will provide appropriate support and assistance according to students' different needs and conditions.

The Subcommittee asked UGC-funded institutions to take into account the disabilities of students with SEN and consider exempting them from meeting certain entry requirements. Here I would like to stress that admission and formulation of entry requirements are matters falling within the autonomy of the institutions. The Government respects the autonomy enjoyed by the institutions in this respect. All the eight UGC-funded institutions drew up their entry requirements on a non-discriminatory basis. Their admission is mainly based on merits. The sub-system specially set up under the Joint University Programmes Admissions System for PD individuals enables students with SEN to find out as early as possible the special assistance provided by institutions for handling their admission applications. At the same time, through this system, institutions can identify as early as possible students with SEN and provide the relevant assistance.

Boarding Service [Recommendations (26)-(33)]

Just as in the case of special schools, the planning of schools with boarding places for PD children is on a territory-wide basis. Consideration will also be

given to the supply and demand situation on a regional basis. On top of the boarding sections for PD children in the two schools on Hong Kong Island and in Kowloon, we, as earlier on stated by me, and mentioned by quite a few Members, plan to build a similar dormitory with 60 boarding places in New Territories East as well as in New Territories West to meet the demand.

Under the existing practice, the task of screening applications for boarding placement in special schools is centrally processed by the Education Bureau. This practice is not only fair, just and open, but it can also ensure the consistency of the assessment criteria. Individual special schools have the duty to review the boarding needs of their own boarders in order to decide whether or not to let them stay on as boarders. The Bureau will regularly review the demand, including that for five-day or seven-day boarding service. For the school year of 2008-2009, we have already adjusted the five-day and seven-day boarding capacities as required.

The Education Bureau provides air-conditioning facilities in the classrooms and special rooms in schools for PD children as well as schools for severely intellectually disabled children. This is to avoid a situation in which students are unable to concentrate while having classes in hot and humid conditions due to discomfort caused either by being strapped to wheelchairs or some other chairs to get a stable posture, or by the need to put on padding on the legs or arms. At present, air-conditioning facilities in the dormitories are donated by outside organizations. The recurrent expenditure is shared by parents. We will explore room for improvement.

Finally, President, I thank Members and the public for their concern about students with SEN. We will closely monitor the progress of all the support measures under the IE programme, and keep in touch with the schools closely to help the schools provide quality education.

President, I so submit.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, I thank Members for giving just now their valuable and constructive ideas on promoting employment opportunities for persons with disabilities.

Just as stated by me at the start of the motion debate, assisting the integration of persons with disabilities into the community with equal

opportunities has all along been the objective of our policy on rehabilitation. Promoting their employment in the open market and helping them achieve self-reliance precisely constitutes the best way to assist their full integration into the community.

I fully understand that, to persons with disabilities still able to work, employment is very important. I have met many parents and out-of-job persons with disabilities, and fully understand their aspirations and feelings.

For the promotion of the employment of persons with disabilities, in addition to efforts on the part of the Government, there has got to be support from all quarters of the society, including the business and industrial sectors, social welfare sector, and the districts. The Labour and Welfare Bureau and the Rehabilitation Advisory Committee (RAC) have set the promotion of employment of persons with disabilities as the focus of this year's work, proactively looking for support and co-operation from every quarter in a bid to forge an accommodating employment environment for persons with disabilities with concerted efforts.

On the Government's part, we have been proactively encouraging government departments, government-subsidized organizations (GSOs) and statutory bodies to employ persons with disabilities. Being the largest employer in Hong Kong, the Government well understands the importance of taking the lead in employing persons with disabilities to help them get equal opportunities in employment. An appropriate degree of preference for appointment will be given to a person with disabilities should that person be suitable for a certain position. Over the years, the percentage of civil service employees with disabilities has consistently remained at more than 2% of the total civil service strength. We will continue to encourage heads of government departments to hire more persons with disabilities as long as circumstances so permit.

As regards GSOs and statutory bodies, we have all along requested all bureaux and departments to encourage the public bodies and subsidized organizations under their policy purview to adopt a host of measures to further promote the employment of persons with disabilities. These measures include setting up indicators for the employment of persons with disabilities on a voluntary basis; formulating policies and procedures regarding the employment of persons with disabilities by drawing reference to those for the Civil Service; and publishing the numbers of employees with disabilities in their annual reports.

To find out the progress made by the relevant subvented organizations and statutory bodies in carrying out these measures, the Labour and Welfare Bureau also regularly conducts follow-up tracking surveys. The latest survey was completed late last year, and the data were already included in the report of the Subcommittee of the Legislative Council early this year. I agree that there is room to further encourage subvented organizations, especially social welfare agencies, to hire more persons with disabilities. We will continue to work on this with even greater efforts.

In response to the request of the Subcommittee, in May this year we furnished the Legislative Council with further information on this follow-up tracking survey, including the names and responses of surveyed GSOs and statutory bodies, and the names of GSOs and statutory bodies not responding.

Pursuant to the results of the survey and the advice from the Legislative Council and RAC, we are taking a host of follow-up measures to encourage subvented organizations and statutory bodies to hire more persons with disabilities, and make employers and members of the public more aware of their talents and employability. They include:

- (i) Making appeals, through visits, regular meetings, and collaboration with the Hong Kong Council of Social Service, to urge every social welfare agency to take the lead in supporting and promoting the employment of persons with disabilities;
- (ii) Giving explanation to public bodies and subvented organizations on the relevant policies and services through various Policy Bureaux and departments and advising them to take appropriate measures to promote the employment of persons with disabilities; and
- (iii) Briefing the 18 District Councils, small and medium enterprises and chambers of commerce on the various services available for the employment of persons with disabilities and establishing sustained collaborative relationships for the promotion of employment for persons with disabilities.

Moreover, the Public Education Panel of the RAC has set the promotion of employment for persons with disabilities as the main theme of their publicity effort. The Labour and Welfare Bureau will make available additional

resources in support of the relevant effort. Coming under this is the setting up of a dedicated website to promote the employment of persons with disabilities and consolidate relevant information provided by various government departments and organizations. Also, a series of publicity activities will be held to promote this resource platform and the message on hiring persons with disabilities. To enhance the effectiveness of publicity and public education, we will also invite different non-governmental organizations, District Councils, and government departments to hold activities of public education by using this as the theme.

To promote the said message, the Marketing Consultancy Office (Rehabilitation) (MCO(R)) of the Social Welfare Department has launched a series of activities, including television and radio announcements of public interest and a drama script-writing competition. To enhance public understanding and acceptance of persons with disabilities and encourage members of the public to try the services or products provided by persons with disabilities, the MCO(R) also holds publicity seminars and promotion events.

Madam President, efforts to promote the employment of persons with disabilities depend on public support. In this connection, I too noticed that as a result of the advocacy by the Government and all Members, persons with disabilities now in the employ of the Secretariat of the Legislative Council already constitute 2% of the total strength.

We will proactively continue to establish sustained partnership with all sectors and press on in different directions to make people of every sector better understand the working capabilities of persons with disabilities, and give them equal opportunities and conditions of employment so as to ultimately achieve an inclusive and harmonious society.

Madam President, I so submit.

PRESIDENT (in Cantonese): Dr Fernando CHEUNG, you may now reply. You have one minute 10 seconds.

DR FERNANDO CHEUNG (in Cantonese): After listening to the replies from the two Secretaries, I am disappointed generally. Although both Secretaries

agree with the direction of the 46 recommendations made in the report of the Subcommittee, in fact there is basically no direct indication of acceptance of the specific details in their replies. The Secretary for Education even said that quite a few of the specific recommendations cannot be implemented or are not practical.

President, if you have heard the comments of Members who spoke just now, you too can notice that all parties and groupings in the Legislative Council have in fact come to a consensus on how to make improvements for persons with disabilities and students with SEN. It is that in matters like education, boarding and post-graduation career prospect, whether for employment or for further training, there is a definite need for additional resources. About a week ago, the Chief Executive spoke to us here, saying that we should not have so many disputes, but should focus efforts on getting issues of the people's livelihood properly dealt with. These of ours are issues of people's livelihood, President. If there can be no implementation for such specific recommendation, that is, to provide better services to some students with SEN, I wonder what else the SAR Government should do. So, if today every colleague does support the recommendations of this report of mine, then the Government is duty-bound to put them into effect expeditiously. Thank you, President.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Second motion: Proactively promoting waste recovery and recycling.

I now call upon Mr Vincent FANG to speak and move his motion.

PROACTIVELY PROMOTING WASTE RECOVERY AND RECYCLING

MR VINCENT FANG (in Cantonese): I move that the motion, as printed on the Agenda, be passed.

I propose this motion today because we consider that the Product Eco-responsibility Bill, on which we will resume the Second Reading debate next week, is an incomplete environmental legislation, as it fails to raise any concrete proposals on recovery of useful wastes and recycling. During the debate on the policy address in 2005, I already pointed out that due to limited resources on earth and the fact that wastes could not be discarded outside our planet, in order to tackle the accumulation of wastes in our environment and make full use of our limited resources, the effective way was to recover and recycle reusable materials in the wastes, and then reuse them.

The Government mapped out a comprehensive waste management strategy for the next 10 years in the Policy Framework for the Management of Municipal Solid Waste published in December 2005, which included increasing the recovery rate of municipal solid waste to 45% to 50% by 2009 and by 2014 respectively. In fact, we achieved the target of 45% as early as in 2006. However, as for the Government, apart from providing three-coloured waste separation bins, it had no other policies to show support. Therefore, such accomplishment was merely boosted by economic effectiveness. As wastes have value, there will of course be people collecting them, and the recovery rate will then increase.

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

The facts show that if the Government can put more efforts in waste recovery, Hong Kong will absolutely be able to further reduce the total amount

of solid waste to below 25%. However, over the past years, although Mr Andrew LEUNG and Mr KWONG Chi-kin have proposed motions on policy on the recycling industry and developing environmental industries to create more job opportunities respectively, and both of the motions have been passed, up till now, even with the imminent passage of the Product Eco-responsibility Bill which name is very grandiose, we are so surprised that it just forces consumers to pay money to shoulder the responsibility of waste generation. As such, who should be responsible for solving the waste problem?

Regarding the method of imposing a ban by levying a tax, I object to it as consumers will very easily acquire a mentality that "I pay the money and you shoulder the responsibility". Therefore, if the public's daily habits cannot be changed and there is no follow-up solution for the disposal of used plastic bags, the Bill will only be a bill for levying taxes.

As far as I know, the Government is now exploring with retailers the channels for recovery of plastic bags at supermarkets, and is discussing with the Hong Kong Plastic Bags Manufacturers' Association on how to collect and recover these materials. No matter what the outcome is, these are a good start. However, the imposition of levy on plastic bags proposed by the Government will only apply to certain specific chain stores. If the public do not shop at these chain stores, they are not required to pay the levy, resulting in a situation where there is a rise in one area but a decline in another area. If the public have all along been using these shopping bags to contain garbage, do they need to buy garbage bags?

This is the reason why I propose that the Government should review the effectiveness one year after the imposition of levy on plastic bags, including the quantity of plastic bags successfully reduced, and set out a direction of the next step on the basis of the quantity of plastic bags used in other areas, as well as the quantity of those being recovered and recycled. Before achieving satisfactory results, I do not agree to extend continuously the imposition of levy and tax to other items.

I think the most effective way of environmental protection and waste reduction is to promote the recycling industry, so as to boost the operation of the entire environmental protection chain.

According to the figures provided by the Federation of Hong Kong Industries, the green industry is a business with high economic effectiveness. In 2005, the green industry in Singapore brought about economic benefits of \$14 billion; the corresponding figure in Thailand was \$22.6 billion, that in Taiwan was \$47.5 billion; and that in Korea was the highest, which recorded \$66.3 billion.

With the establishment of waste recycling factories, there will of course be certain demands for raw materials, that is, recyclable wastes. By that time, the development of the recovery industry can be promoted automatically. Therefore, we should have a comprehensive policy on recovery of recyclable wastes; otherwise, it will end up with the situation faced by the recycling industry of used vehicle tyres, which is the most successful one in Hong Kong. Although it intends to expand the production, there are not enough raw materials as waste collectors have exported used vehicle tyres in view of the spiralling rubber price.

Therefore, I propose that the Environment Bureau should establish a dedicated department to formulate a policy on recovery of recyclable wastes. It should also make reference to the experience of the Mainland and Taiwan to establish a waste management centre jointly run by the Government and the trades, which will be dedicated to co-ordinate the recovery of solid wastes and the relevant regulation, technological studies and information exchange on recycling.

The Environment Bureau should also take up the co-ordinating role with other departments. At present, the Environmental Protection Department (EPD) has outsourced the management of three-coloured waste separation bins to recovery companies whilst the Food and Environmental Hygiene Department (FEHD) is responsible for refuse disposal. However, as for the amount of recyclable wastes collected by three-coloured waste separation bins, where the wastes go and whether they are really recycled, according to the reply given by a public officer of the EPD, most of them are exported. As such, will other countries import such refuse forever? The public officer advises that these are not refuse but things having value. As this is the case, why does the Government pay others for recovery of these things having value to support their recovery industry? Why do we not develop our own green industries to bring about a sustainable development for our economy and create job opportunities?

As for refuse depots of the FEHD, it has been reported more than once by the media that some staff have separated wastes and sold those with recovery value in order to earn extra money. Such a practice should not be tolerated.

As advised by the Government, Hong Kong does not have any places which can be allocated for recovery of wastes having value. Such an argument is not justified. Apart from refuse depots, I have also proposed that spaces under flyovers should be fully utilized. In fact, in the process of planning, the Government has considered the need of establishing collection points for recycled products, but why no such collection point has ever been established so far?

With the establishment of recovery points, it is believed that the existing recovery industry in Hong Kong, which is very active but without any order, can be regulated. The recovery industry in Hong Kong operates in a considerable scale. According to the figures provided by the EPD, the export of recyclable wastes of Hong Kong in 2007 amounted to 2.73 million tonnes, with an export value of \$6 billion, which was over a double as compared to \$2.5 billion in 2003. These figures show that such an inconspicuous industry has provided job opportunities for many people. According to the figure provided by the trade, more than 40 000 people are now engaging in the recovery and environmental industries. It is believed that this figure has yet included those elders and street sleepers who rely on collecting waste papers and aluminium cans to make a living. In the trade, those larger-scale operators even have their own fleet of vehicles. Regarding the cargo handling quays, the operators of which have lodged a complaint to the Legislative Council recently, some of them are specialized in handling waste recovery.

However, as the international oil price is soaring and the operational cost is increasing, many waste collectors are in face of more and more difficulties in their operation. On the other hand, as the recovery industry is not regulated under the existing legislation, negative news is very common. For example, waste collectors only picked out valuable things and discarded those with no value carelessly. Also, the police suspected that some waste recovery yards accepted stolen goods, which was developed into a significant issue.

If the Government can grant lands to group waste collectors at one place, it can not only reduce the impact on the public, but also facilitate its management to guarantee that no pollution will be created. Moreover, the environmental

industries in advanced countries all over the world are supported by their governments. In particular, recycling factories, which generally involve high technology, their capital investment is huge and the return period is relatively long. This is the reason why I propose that the Government should provide complementary policies such as incentives in terms of taxation or land to attract local or international investors to invest in the recycling industry in Hong Kong, so as to digest the wastes generated in Hong Kong first. If this can be done, it will benefit our environment, economy, the living of the general public and even create job opportunities. It is a multi-win proposal. In order to improve air quality, the Government has allocated funds for local traders to improve their factories, so that they can achieve clean production. It has also provided subsidies of \$3.2 billion for them to switch to commercial green vehicles. Therefore, I think Honourable colleagues will support that the Government should make a greater commitment on environmental protection, and I hope Honourable colleagues will support my motion.

I so submit. Thank you, Deputy President.

Mr Vincent FANG moved the following motion: (Translation)

"That, as the amount of waste generated in Hong Kong continues to increase, in which there are a lot of recyclable and useful materials, yet the Hong Kong Government has no dedicated department responsible for waste recovery and no policy to encourage the recycling industries to recycle local waste, resulting in a large quantity of useful materials being dumped at landfills; together with the imminent passage of the Product Eco-responsibility Bill, which contains no proposal on complementary measures to recover and recycle plastic bags, this Council urges the Government to:

- (a) review the effectiveness of the relevant Ordinance one year after the imposition of levy on plastic bags, including the quantity of plastic bags reduced, recovered and recycled;
- (b) establish a dedicated department under the Environment Bureau to formulate a policy on recovery of recyclable waste, and enhance its collaboration with the Food and Environmental Hygiene Department, which is responsible for handling refuse, to implement separate recovery of recyclable waste;

- (c) provide incentives or appropriate assistance to waste collectors, and regulate the recovery trades and promote their development; and
- (d) provide incentives in terms of taxation or land, etc. to attract advanced local or international waste recycling trades to invest in the waste recycling industries in Hong Kong, so as to process the waste generated locally by recycling as far as practicable, thereby reducing the waste ultimately dumped at landfills, promoting the sustainable development of the Hong Kong economy, and creating job opportunities."

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

DEPUTY PRESIDENT (in Cantonese): Three Members intend to move amendments to this motion. The motion and the three amendments will now be debated together in a joint debate.

I now call upon Miss CHOY So-yuk to speak first, to be followed by Mr SIN Chung-kai and Ms Audrey EU; but no amendments are to be moved at this stage.

MISS CHOY SO-YUK (in Cantonese): Deputy President, I wish to thank Mr Vincent FANG for raising today the issue on refuse disposal here again. I remember that I proposed a motion debate on waste management in January 1999. Since then, more than eight years have passed. During this period, no matter how our Honourable colleagues in this Council attached importance to this issue and how many items were discussed with the Government, I think what we have done are only something remedial without any significant progress. In fact, the amount of refuse we have recovered is just under control now. We have to admit that it has not been increasing continuously, but a slight rising trend has been recorded in recent years.

Deputy President, in fact, the refuse recovery management system is implemented in many other places around the world. It is only Hong Kong

which has yet put it in place. The system encompasses three levels: the first level is to reduce waste generation at the outset; the second level is how to recover wastes after they have been generated, so as to reduce the amount of wastes which will eventually become refuse. In other places around the world, most of their resources and efforts are put in the first level through legislation as well as many other tools and financial measures. For example, they will reduce waste generation by adopting the system of product eco-responsibility. After wastes have been generated, they will adopt various kinds of technologies to separate them. This is the resources injected in the second level. In other places, they will only deploy minimum resources on refuse which has already been generated but cannot be recovered. Such refuse will be delivered to incinerators or landfills for disposal. Hong Kong has only one route, with resources being injected into the final or the third stage. We use 100% of our money in the final stage of refuse disposal, but inject very limited resources into the first two stages.

In recent years, we note that something has been done but the pace is really very slow. As for the work of the first level, such as adopting the "polluter-pays" principle and the system of product eco-responsibility, what we have done is the introduction of the landfill charging scheme for construction wastes three or four years ago. This is the first step. And the imposition of levy on plastic bags, which we are going to scrutinize next week, is the second step. Apart from these, we cannot see the third step. Therefore, I also propose to amend Mr Vincent FANG's motion today, hoping that the Government will enact legislation as soon as possible for the five products I have proposed after completing the enactment of the Product Eco-responsibility Bill and the levy on plastic bags. Moreover, we have also made reference to overseas practices, such as making use of packaging and implementing the variable rate charging scheme for refuse. I have proposed in my amendment that I hope the Government can expeditiously implement the variable rate charging scheme, so that waste generation by each family or each unit can be reduced effectively.

As for the second level, after refuse has been generated, Mr Vincent FANG has mentioned today whether such refuse should be recovered as far as possible and undergo recycling after recovery. Up till now, what are our deficiencies? The answer is that we do not have a system to facilitate an effective and complete recovery of such refuse, and enable recycling. At present, we use three-coloured recovery bins and even adopt source separation,

requiring buildings to place these bins in their premises. But it is up to them to decide the number of these bins and the locations where they should be placed, no matter on each floor or just on the ground floor. These are all insignificant efforts, which can hardly achieve an effective refuse reduction. As for effective refuse reduction, generally speaking, if the system is good, refuse generation can be reduced to about 40%. However, we still have up to 80% to 90% of our refuse being dumped at landfills now. Therefore, the system is a problem.

In order to establish a system, I know that there are deficiencies at present because at least, refuse is handled by several departments. Domestic refuse is of course collected by building management companies first, and then delivered by vehicles of the Food and Environmental Hygiene Department to refuse transfer stations under the Environmental Protection Department (EPD), and finally be transported to landfills by the contractors of the EPD. In fact, no co-ordinated service is available. I have proposed in my amendment that I hope the Government can provide a "follow-through" service to facilitate easy refuse disposal after refuse is separated. Many countries, such as Japan, have adopted such a practice. Particularly, in Taiwan, refuse is separated into dry and wet ones, and garbage trucks also have two compartments, that is, one for dry refuse and another for wet refuse. After arriving at refuse transfer stations, dry refuse can of course be separated by the staff whilst wet refuse can be delivered to certain companies to use as animal feed or bio-diesel. At present, there are such kind of factories in operation in Hong Kong. Wet refuse has its value, not to mention that dry refuse also has its value. As mentioned by Mr Vincent FANG earlier, not only 40 000-odd people but several ten of thousand female elders in Hong Kong are solely relying on refuse collection to make a living.

Therefore, I think the most important thing now is to establish a system. As for the mode of its operation, I have proposed that we should adopt refuse separation into dry and wet categories at source. I have already told the Secretary details of the whole system. Due to time limit, I cannot give Members a detailed elaboration here.

Following refuse separation, there should be the recycling industry. In this regard, we have established the EcoPark, but this EcoPark is such a mess that despite many years have been spent on its preparation, it is small and with a lot of problems. We have discussed this issue at the panel for a long time. As time is limited, I cannot talk too much about it, neither. I personally do not mind conducting refuse recycling at the EcoPark in Hong Kong, or transporting

such refuse to the Mainland or the neighbouring countries for recycling. I do not insist that recycling has to be conducted in Hong Kong, but if so, it will be most desirable as more job opportunities can be created. However, most importantly, a mechanism must be in place, so that large amount of recyclable materials need not be dumped at landfills or incinerated. If there is genuinely no way to do so, refuse should of course be incinerated or delivered to landfills. I have indicated time and again here that I really do not mind incinerating refuse, but do mind incinerating those recyclable materials which have yet been separated. I think such approach of handling wastes is completely against environmental protection. If we can handle refuse in Hong Kong through the first stage and the second stage to achieve waste reduction, and deliver the remaining small amount of refuse to incinerators or landfills after conducting waste separation and recovery, I personally consider that there is no problem and I will give it my full support.

Therefore, the most important thing is that we should implement waste recovery and recycling, and of course, not to mention waste reduction. Deputy President, with these remarks, I support the motion.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, I remember that when introducing the plan of constructing the EcoPark, the Government advised that upon its completion, it was hoped that Hong Kong could develop recovery industries for high value-added products. However, what we can see so far are only some "uncompleted" leasing cases of the EcoPark one after another. I do not know whether it should be named as "uncompleted EcoPark". Environmental industries which the public has longed for can hardly be developed within a foreseeable future.

I consider that the waste recovery industries in Hong Kong are now in a state of separation. In Hong Kong, the recovery of reusable materials, particularly paper, glass, metals and plastic bottles, is very outstanding. Generally speaking, more than 80% of reusable paper, glass and metals are recovered, and the actual recovery rate of these materials may even be higher than the figures provided by the Environmental Protection Department (EPD), as Hong Kong has a mechanism for a huge informal market to handle these materials. To put it bluntly — borrowing a phrase frequently used by Selina CHOW — the social welfare system in Hong Kong is so "good", resulting that many of our elders aged over 60 or 70 have to collect waste papers and metals.

In recent years, as the price of these reusable materials soars, they even fight among themselves for waste paper. Secretary, after you realize that some elders have queued up for free newspapers and sold them to waste collectors recently, I hope you can understand that this is the consequence of what Secretary CHEUNG, your dear colleague, has done. I hope you can follow this issue up with Secretary CHEUNG. Although it is good to achieve a high recovery rate, you Secretaries should by no means treat the elders so badly.

Although the recovery rate is very satisfactory, it is solely attributed to our poor social welfare. On the other hand, the recovery rates of some materials have all along been on the low side as they lack local market value, such as rechargeable batteries and computer products. In fact, these materials are not absolutely non-reusable. It is only due to the fact that Hong Kong does not have many companies and plants to handle these materials.

Generally, materials recovered in Hong Kong are delivered to the Mainland for handling. Among them, only a very limited amount is recycled in Hong Kong. According to the figure provided by the EPD, in 2006, materials recycled in Hong Kong only accounted for 2% of the total amount recovered. It is because the cost of operating recovery industries in Hong Kong is very high (which is mainly attributed to wages and rentals), we are simply incapable of competing with the Mainland. Moreover, in leasing the EcoPark, the Government has required operators to pay deposit and performance bond, and it has divided the EcoPark into lots of a certain area. All these arrangements have deterred investors who intend to set up their plants there.

I propose that the EPD should consider adopting the approach of running industrial parks or industrial estates. In fact, I have wondered whether we should stop allowing the EPD to manage this piece of land as it may be more effective to let the Science Park or industrial estates manage it. The EPD will help in arranging the leasing conditions. What we have to do now is to attract people to make investments here. On the contrary, you require that "access to water supply, electricity and roads as well as site formation" should be ready, and have even decided how water pipes should be laid. In other places, tailor-made services will be provided for investors. But you divide the EcoPark like cubes of bean curd. Will investors rent it? As for tendering, investors have to pay \$2 million in advance. Who will be willing to invest? In fact, high price is not a problem. Some computer companies have told me that the cost of running their business in Australia is not lower than that in Hong Kong.

However, there is much room for running their business of computer maintenance. They can separate the components of a computer part by part into metals, plastics and so on. All in one go. In fact, problems do exist in our policies and incentives. Vincent FANG, you said that we had to calculate the cost. But the cost is not the main reason. There are also other reasons. Of course, we do not have enough time to go through all the problems now. However, in promoting the recovery of computers in Australia, they really separate all materials part by part and then recycle them again.

Deputy President, summing up the recovery work over the past years, the Democratic Party considers that recovery in Hong Kong lacks a direction and a comprehensive policy, resulting that many reusable materials are delivered and dumped at landfills. Also, the Government tends to adopt "instant" methods to address the problem, that is, it proposes to construct incinerators and expand some of the landfills.

Of course, overseas experiences have shown that the control on emission of harmful materials (mainly dioxin) from modern incinerators has already been very satisfactory. However, on the premise that the recovery rate is still on the rise (last year, the recovery rate of domestic waste was 45%), how can the Government convince the public to support the above proposal? In fact, we should make more efforts regarding the recovery rate of domestic waste. Public views collected by the Democratic Party at the district level reveal a unanimous objection to the proposal concerned. This is also what the Democratic Party has all along been advocating. Incineration should be the last resort rather than a proposal to be considered with priority.

It has been mentioned in both Mr Vincent FANG's original motion and Miss CHOY So-yuk's amendment that a dedicated department should be established to handle the policy on waste recovery. The EPD is now making efforts in this regard. I remember that Mr Martin LEE raised a similar proposal of setting up a bureau to handle waste recovery in his speech made in this Council in the past. I think the message conveyed is very clear, that is, we hope the Government can attach importance to its policy on municipal solid waste.

Secretary, two years ago, the Democratic Party made a fuss to respond to this issue. We made tremendous efforts to organize a forum with our savings and invited international experts to have discussion on a report of your bureau,

which was a report published by the former Secretary of your bureau. We have the foresight, not hindsight, to know that it is a big trouble, a big bomb. Of course, we consider that the most effective but the most controversial way is to impose a charge on the disposal of domestic waste and introduce the Producer Responsibility Scheme in Hong Kong. I think the Secretary should understand that the Product Eco-responsibility Bill (the Bill) we are now scrutinizing — I think we will support it during the Third Reading of the Bill next Wednesday — is not the Producer Responsibility Scheme widely adopted overseas, which requires manufacturers to recover and handle a certain percentage of their products. We of course understand that most products in Hong Kong are imported from other places, and therefore, it is difficult for us to adopt the overseas approach. An effective charging system on domestic waste will definitely boost the recovery rate and lower the amount of domestic waste. However, in view of the pressure faced by the Government in promoting a green tax, I expect that the Government will not put forward this proposal in the next few years. I am worried that the Secretary does not have the guts to do so. But I can hardly give him a helping hand as I will no longer be a Member of the Legislative Council two weeks later, and so, I cannot support you in the next term. However, I still hope that you have the guts to do so.

In the remaining time, I will say a few words on my amendment. The Democratic Party proposed the introduction of a green tax a few years ago. We have published a report on green tax as we noticed a long time ago that environmental protection can be achieved by means of taxation. The green tax we proposed at that time involved a reform of the whole taxation regime. However, the Bill introduced this time is only a small part of the Democratic Party's proposal, which will levy a tax on consumer behaviour. As a result, it gives people an impression that the imposition of levy is for bringing in more revenue rather than environmental protection, which is not what I want to see. Such an impression not only alters the original intent of the product eco-responsibility scheme, but also becomes a justification for objecting to the imposition of a green tax. As a result, there are comments in our community, including "environmental protection cannot be achieved by levying a green tax" and "levying a green tax will impose a heavier burden on the grassroots".

Deputy President, regarding the Democratic Party's opinions on the green tax, I will wait and give a detailed account during the Second Reading debate on the Bill in this Council next week. I now hope that after enacting legislation on the levy on plastic bags, the Government can complete the legislative work on

vehicle tyres, packaging materials, beverage containers, electrical and electronic equipment and rechargeable batteries in the coming two years. This is also the Government's undertaking in the Policy Framework for the Management of Municipal Solid Waste. I propose the amendment mainly because I am afraid that the Government will "shrink" from enacting legislation on other products after completing that on plastic bags. Please do not keep telling the international community after enacting legislation on plastic bags: We have already made efforts. As mentioned in Mr Vincent FANG's original motion, we should urge the Government to review the effectiveness one year after the imposition of levy on plastic bags. I of course hope that the Government will introduce other bills regarding eco-responsibility before the completion of the review of the imposition of levy on plastic bags. The Democratic Party hopes that the Government can undertake that resources for waste recovery and recycling should not be limited to only revenue generated from the green tax, as such revenue should not be the only source. In addition to the green tax, I hope the Government can inject some resources into our environmental protection work.

With these remarks, I support the original motion and all the amendments.

MS AUDREY EU (in Cantonese): Deputy President, in the speeches given by several Honourable colleagues today, apart from the original motion, they have also talked about the amendments and put forward nearly 10 proposals on waste disposal, showing that the Legislative Council is very concerned about the issue of waste disposal. We are very worried that as the remaining landfill capacity is limited, if we cannot come up with some new or effective measures, Hong Kong will suffer from the consequences of what it has done very soon, not to say in the future.

Miss CHOY So-yuk has mentioned the three levels in her speech just now, that is, the 3R principle we always talk about: first is reduce; second is reuse; and third is recycle. Among them, reduce is of the top priority. However, regrettably, Hong Kong is the weakest in this area.

Looking back at the figures submitted by the Government to the Legislative Council, in 2007, 3.44 million tonnes of municipal solid waste (MSW) were dumped, with an increase of 1.6% as compared to the figure in 2006. In comparing with the 3.423 million tonnes in 2005, there was in fact an

increase of 17 000 tonnes. Where does the question lie? The question is that the amount of commercial and industrial wastes in Hong Kong is on the rise. The amount of industrial and commercial wastes dumped at landfills increased from 931 000 tonnes in 2005 to 966 000 tonnes in 2006, and even increased to 1.12 million tonnes last year. The increment rose sharply from 3.8% in the year before last to 16% last year.

Even with an effective recovery of domestic waste that the amount of domestic waste dumped at landfills dropped from 2.492 million tonnes in 2005 to 2.32 million tonnes last year, with a decrease of 172 000 tonnes, it could hardly offset the growth of our commercial and industrial wastes.

Although Hong Kong recovered 2.75 million tonnes of MSW in total in 2007, as I have just mentioned, there were still 3.44 million tonnes dumped at landfills. Summing them up, we can see that 6.19 million tonnes of MSW have in fact been generated. Frankly speaking, this has not achieved the Government's original target of waste reduction of 1% per annum. As we can see, 6.013 million tonnes of MSW were generated in 2005, 6.227 million tonnes were generated in 2006 and 6.19 million tonnes were generated in 2007.

By reviewing what has been learnt, we can learn something new. Let us check the Government's past records. In 2005, the Government published this presentable Policy Framework for the Management of Municipal Solid Waste (Policy Framework), claiming that the three landfills in Hong Kong would soon be full during the period from 2011 to 2015. The problem was so urgent that there was a pressing need to formulate some strategies. As such, the Government drew up a roadmap of waste disposal for the coming decade, and proposed three tactics for waste reduction, that is, charging on wastes, implementing the Producer Responsibility Scheme (PRS) and landfill disposal bans. Moreover, based on the level of 2003, a target was set to reduce the amount of MSW by 1% per annum up to 2014.

Why can achievements not be made, no matter whether on waste generation, disposal or reduction, despite the Government's proposal of such a roadmap? The reasons are, first of all, policies are not introduced timely; second, even policies and measures are introduced, they are "distorted"; and third, government departments have not fully supported the first "r", that is, waste reduction.

As mentioned above, with respect to the three policies proposed in the Policy Framework three years ago, that is, charging on wastes, implementing the PRS and implementing landfill disposal bans, what the Government has achieved now or in the next week is only imposing a tax on plastic bags. As for charging on domestic waste and implementing landfill disposal bans, they remain only a concept, simply "empty words".

Another problem is that the policies and proposals introduced are different from the original ideas. Take the PRS as an example, Deputy President, let me quote some of the original ideas proposed in the Policy Framework. It was stated in page 25: "put the onus on the producers and users of products (that is, the community) to share the responsibility for all the economic, social and environmental impacts of a product throughout its lifecycle." Moreover, it was also pointed out in paragraph 54 of the Policy Framework: "A well-designed PRS spurs producers to design products that generate less waste, or that can be reused or recycled." It was pointed out in paragraph 55 of the Policy Framework: "By establishing a long-term, stable and local source stream of recyclable products and materials through PRSs, the Government hopes to develop and sustain the local recycling industry that puts the concept of a 'circular economy' in practice." All these are the aggressive ambition voiced out in the Policy Framework, but we have only made the slightest progress.

Moreover, the Policy Framework has also listed the five major elements involved in a typical PRS. It was pointed out in paragraph 75 of the Policy Framework:

- (a) imposing take-back responsibility on manufacturers for recovering and recycling end-of-life products;
- (b) restricting free distribution of certain types of products to reduce consumption;
- (c) imposing a mandatory deposit system for certain types of products to facilitate recovery;
- (d) imposing a levy or fee for recovering and recycling certain types of end-of-life products; or
- (e) imposing restrictions on some components in certain products to facilitate recycling.

The implementation programme for the PRS was also set out in page 39 of the Policy Framework: In 2007, recovery of electrical and electronic equipment; and in the same year, recovery of vehicle tyres and plastic shopping bags as well; in 2008, that is, this year, recovery of packaging materials and beverage containers; in next year (2009), recovery of rechargeable batteries. This is the implementation programme for the PRS. It is already July 2008 now. What have we achieved? As mentioned by our Honourable colleagues, it seems that the Government has committed a gigantic fraud by introducing the Product Eco-responsibility Bill. Have the five major elements of the PRS been included in the Bill? Apart from the imposition of a levy on plastic bags, what else do we have? Moreover, although the Bill is under the name of PRS, it is, in fact, just a kind of green tax.

Same as the speech made by Mr SIN Chung-kai just now, the Civic Party is in support of the green tax. We have raised this issue when we meet with the Financial Secretary every year. However, the green tax we proposed is not as simple as the present levy on plastic bags. When we take a look at the genuine green tax imposed overseas, we can actually clearly see that the revenue generated from environmental protection is committed to environmental protection.

Deputy President, due to this reason, I have added in my amendment to "use the proceeds from the levy on plastic bags to set up a green fund to encourage waste reduction and recovery work". This is one of the differences of my amendment with those proposed by other colleagues. I hope Members can give it their support, as in doing so, the principle of imposing a green tax can really be realized. The Government advised that the present proposal of imposing a levy on plastic bags would fetch an additional revenue of \$200 million each year. But this amount of \$200 million will be put into the Treasury. Exactly how much of this amount will be used to subsidize waste recovery industries in future? In fact, we have no way to know it.

According to the PRS proposed by the Government years ago, apart from plastic bags, there are also the five items which we have just mentioned. The relevant years of recovery should be from 2007 to 2009. As for the recovery of vehicle tyres, it seems that there is no such need now. As for the recovery of electrical and electronic equipment, as well as packaging materials and beverage containers, it was supposed to be implemented last year and this year. But up till now, nothing has ever been done. Therefore, we will give full support to

our colleagues' amendments. And I have also proposed in my amendment that I hope the Government can expeditiously introduce PRSs for these other items.

As for the Bill on imposing a tax on plastic bags, I also hope that the Government will take this opportunity to make more efforts in the recovery and recycling of plastic bags. But regrettably, no matter what we say, it seems that the Government has always turned a deaf ear to us.

Deputy President, I wish to say a few more words. The NEXT Magazine this week has presented a special report on the recovery of food waste. I suggest that the Secretary may take a look at the plight involved. And I hope that the Government can provide sufficient assistance to those who are engaging in the waste recovery industries when they are in face of difficulties.

The Civic Party supports the original motion and all the amendments. Thank you, Deputy President.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, Honourable Members, first of all, I would like to thank Mr Vincent FANG for proposing this motion. Moreover, I wish to express my gratitude to Miss CHOY So-yuk, Mr SIN Chung-kai and Ms Audrey EU for proposing their amendments. Management of solid waste is a matter of great public concern. This is not only a problem for Hong Kong. We can also see from news footage the "bad consequences" caused by the problem of waste management in some places overseas, which make us deeply understand the importance of this problem. Therefore, we all agree that the overall strategy of waste management should be reviewed.

We have also seen that for those places which have proposed the imposition of levy on plastic bags almost at the same time with us, such as the Mainland, although our timing of introducing such levy is similar, they have put it into full implementation since 1 June. When I visited San Francisco early this year, I noticed that shorter time was required for the passage of some similar bills in its legislature. Today is one week before the resumption of Second Reading of the Product Eco-responsibility Bill. It is an appropriate time for Members to propose a motion on the issue of waste recovery and recycling.

In order to deal with the serious and urgent problem of solid waste in Hong Kong, as mentioned by many Honourable Members, the Government released the Policy Framework for the Management of Municipal Solid Waste (Policy Framework) in 2005, together with a full set of policy initiatives, with a view to achieving waste reduction and promotion of recovery and recycling from various levels and perspectives. The 3R, which we always talk about, has already been set out in the Policy Framework. As such, the direction of policy implementation adopted by the Government is in fact not much different from that proposed by Members. Of course, in order to fully implement various policies, apart from the implementation proposal which should be put forth by the Government — the Government is definitely duty-bound in this regard — we should also rely on the concerted efforts with the legislature as well as the public participation.

Waste recovery and recycling is a very important element in the overall strategy of waste management, which is also a key point in the Policy Framework besides waste reduction at source. Waste recovery can not only reduce the amount of wastes being dumped at landfills, but also recycle those useful materials to reduce wasting of resources on earth, which is in line with the rationale of sustainable development we want to achieve.

The Government has made efforts on all fronts to promote and support waste recovery and recycling, which is exactly in the same direction put forth by the Honourable Members today.

Therefore, I absolutely agree that waste reduction at source is a key point of our work. As a matter of fact, waste separation and waste reduction at source, as well as promotion of recycling, will accomplish twice as much as the efforts put in. Regarding waste sources, as you may know, the Programme on Source Separation of Waste has been widely implemented in housing estates as well as commercial and industrial buildings at present to separate useful materials from ordinary wastes for recovery and recycling. At present, many housing estates in Hong Kong have also provided recovery bins to facilitate residents to give materials to waste collectors for recycling. The Food and Environmental Hygiene Department and its contractors have also provided logistic support in this regard.

We also hope that with the injection by the Environment and Conservation Fund last year, we can liaise with resident groups at the district level in future to make more efforts in this regard, so as to intensify waste separation at source.

The Producer Responsibility Scheme proposed in the Policy Framework has been implemented gradually. We absolutely agree to it. Therefore, we have also expeditiously introduced the Product Eco-responsibility Bill to the Legislative Council after the announcement of the policy address, and the Legislative Council has formed a Bills Committee for the scrutiny work. Over the past six months or so, we have discussed extensively on the scope, power and detailed arrangements of the Bill. Although we have controversies from time to time, Members have eventually reached a consensus on the Bill, and will resume its Second Reading and Third Reading and pass it at the Council meeting next Wednesday. I would also like to take this opportunity to call on the Honourable Members to give their continuous support to the plans under the Producer Responsibility Scheme, hoping that they can provide a legal framework to enable the Bill to implement our common goal in a gradual manner. Of course, although we have the same goal when introducing the Bill, Members from different sectors often have divergent views on its detailed arrangements. However, we hope that the "polluter-pays" principle can be implemented through legislation, especially the pioneer part, that is, the imposition of levy on plastic shopping bags, can be implemented first, showing us that this is a viable and effective plan.

We also hope that with the passage of the Bill, we can proceed with the work on other relevant products. In fact, over the past year, although the legislation has yet been put in place, we have implemented some voluntary recycling programmes for certain products, including the Computer Recycling Programme and the Fluorescent Lamp Recycling Programme. These recycling programmes as well as the Rechargeable Battery Recycling Programme implemented in 2005 have direct participation and subsidies from the relevant trades. Before the legislation has come into effect, some trades have already provided assistance for the Producer Responsibility Scheme and have discharged their responsibilities. However, shall we solely rely on voluntary recycling in future? We can continue to have discussions on this question.

On the premise of stable supply of recyclable materials, we also proactively promote the development of the waste recovery and recycling

industries. We have provided lands on longer leases and at lower rentals through the EcoPark in Tuen Mun for the waste recovery and recycling industries. We have also leased lands to the trades on shorter tenancy at some more convenient locations in the urban area to facilitate waste recovery. I also agree with the Honourable Members that it is really not an easy task to operate the EcoPark in Hong Kong, and I have mentioned this point at some relevant panels in the past. If we want to develop large-scale waste recovery and recycling industries in Hong Kong, we may not have the best prerequisite as compared with other places, such as the Mainland. In the operation of the EcoPark, we have also learnt our lessons. Although the approval of tendering of some lands was not so satisfactory at the outset, we had to endeavour to give them approval one by one within the shortest period of time, so that the waste recovery industries could be implemented gradually. With more funds being injected in the Environment and Conservation Fund, it is willing to provide more subsidies to promote researches or technical demonstrations for the waste recovery and recycling industries.

Regarding outlets for products recovered and recycled, the Government has also implemented a green procurement policy. As for certain commonly used products, such as stationery and copying machines, the Government will only purchase those which are in compliance with specific green specifications. In recent years, we all see that our vehicles have also been developing in a more environmental-friendly direction. In procurement, individual green elements can score additional points during our selection. We will continue to implement this policy.

Apart from hardware, software is also necessary for waste recovery and recycling, that is, proactive participation and recognition among various sectors in our community and the general public. As such, we have also stepped up publicity work over the past year. Apart from holding concrete promotional activities on waste reduction and recovery with some organizations at the district level, we have also extensively promoted "Green Hong Kong" through Announcements of Public Interest; no matter on clothing, food, housing and transport, we encourage the public to reduce, separate and recover wastes and promote recycling through these publicity efforts.

Although our recovery rate is only 45% and there is still room for improvement, the percentage is in fact not bad as compared to other places with

comparable development. Of course, we still have to make concerted efforts in this regard. As mentioned in the motion and the amendments today, waste recovery and recycling have much room for improvement and development jointly. The Government will certainly promote them at full strength, and hopes that we can obtain continuous support from this Council when introducing these policies in future.

Deputy President, this is a brief account I gave with respect to the speeches made by several Honourable Members on the motion just now. Later, after these Members and other Members have raised their views and questions on this motion, I will be happy to give responses again. Thank you, Deputy President.

MISS CHAN YUEN-HAN (in Cantonese): Deputy President, I hope I can speak as fast as the Secretary as my script is quite long. However, as I do not want to waste it, I will roll it out rapidly.

A few months ago, the Government hosted a seminar on the construction of a new incinerator. At the seminar, a person-in-charge of the Ministry of the Environment from Germany pointed out it was really surprising that Hong Kong had not imposed any levies on refuse and plastic bags, as these measures had been adopted in overseas countries as early as 20 years ago. It is worthwhile for us to think deeply the comments made by this overseas expert. Why has Hong Kong, praising itself as an international metropolis, been lagging behind other places on the measures of waste disposal and recovery for more than 20 years? The Government puts emphasis on environmental protection in its policy address each year, advocating its determination of restoring a blue sky. However, Hong Kong still turns out to be a city with serious pollution. Landfills are so full that country parks have to be occupied, whilst facilities for waste disposal are not accepted by the public, resulting in little progress in the development of waste recovery. What exactly have we done for environmental protection and waste recovery?

Deputy President, we will enact a legislation on environmental protection next week, that is, the Product Eco-responsibility Bill, in which plastic bags are involved. In fact, regarding this issue, we think we have been discussing about it for many years. Since 1995 (CHENG Yiu-tong was still in the Legislative Council at that time), the Hong Kong Federation of Trade Unions has raised that

we should have the waste recovery industries to handle wastes in Hong Kong and deal with the employment problem of the grassroots in Hong Kong. However, regrettably, even we had staged a large-scale procession at that time, the Government remained indifferent. Deputy President, as such, regarding this legislation proposed by the Government, the Secretary said that co-operation of the public and the Council was necessary, frankly speaking, I believe that we will give it our support and have made a lot of we have made some mutual concessions. However, the question actually lies with the Government. I am very worried that as the Secretary has made a long speech just now and undertaken to make legislation for the producer responsibility schemes of the six products in 2009, but only the legislation on plastic bags has been formulated so far and there are still five products on which the legislation have yet been made. What can we do? Secretary, watch out, please. Next year will be 2009.

Deputy President, the Government always says that imposing a levy by means of legislation is very difficult. As this issue is very controversial, it has been delayed time and again. In fact, is it really very difficult? I do not think so. Instead, the Government's determination is of the utmost importance. Let us take a look at our neighbouring places. They have made legislation to regulate environmental protection and waste recovery, and have also faced the same pressure before implementation. However, they have implemented waste recovery and reduction as an important policy — I stress that they have been implemented as an important policy — at full strength of the whole government.

Among them, we notice that tremendous efforts have been made by MA Ying-jeou in this regard. He has injected a lot of resources to explain to the public and assist the trades concerned. Eventually, his proposal has been accepted by the public and turned out to be a success, and is becoming better and better. Deputy President, I cite Taiwan as an example. In the 92nd year of the Republic of China, (that is 2003), they made legislation to restrict the use of plastic bags and plastic eating utensils. In 2006, they implemented a mandatory separation of refuse and imposed restrictions on over-packaging. In order to make my speech today resemble that of Mr WONG Kwok-hing, my colleagues have specially made copies of this pile of papers to me. The year used in the papers is the year of the Republic of China, as they were prepared by Taiwan. I tell you that people there have accepted this now. In 2006, Taiwan made the legislation for implementing the mandatory separation of refuse and imposing restrictions on over-packaging. Moreover, it stepped up the complementary

measures on the recovery of various products, including food waste and levying on plastic bags, to facilitate source separation at the household level. This series of measures eventually achieved an immediate effect. This is the second point.

As such, in Taipei, the amount of refuse in 2006 dropped by 60% and the wastes could also be turned into renewable resources. As a result, their original plan of constructing a new landfill was scrapped. In view of this, waste reduction and recovery are not a mission impossible. The most important thing is whether a government has the determination to promote them. The firmer the determination, the higher the effectiveness — Taiwan has greatly spurred our determination as well as that of the Secretary — otherwise, our efforts will only be to no avail.

Deputy President, in recent years, the construction of waste disposal facilities in Hong Kong has always given rise to grievances in the community, including the waste recovery industries. (I have to slow down a little bit here.) Take the cargo handling area in Kwun Tong as an example. It handles 90% of waste paper in Hong Kong. However, residents are dissatisfied with the nuisance so generated in the neighbourhood and urge to move it away. We fully realize and understand their reaction. But the question is: if the cargo handling area is to be moved away from the urban area, the cost will become unaffordable. I think the Secretary does understand this point. Therefore, regarding the lesson learnt from the EcoPark mentioned just now, its remote location is a critical problem because transportation fee is a very big issue for the green and waste recovery industries. Frankly speaking, in face of these circumstances, the industry will eventually disappear or fail to develop. However, under this situation, the Government just lets residents and waste collectors stand against each other. Similar situations are also found in Tseung Kwan O and Tuen Mun.

In fact, is it a hard knot for waste collectors and the community standing against each other? Overseas experience has already shown that it is not the case. I have to use Taiwan as an example to spur the Secretary again. Taiwan has implemented a lot of different policies in order to address this problem. Since 2005, Taiwan has made efforts to alter the image of waste recovery — I do not have the pictures in hand, otherwise, I can show them to the Secretary — it has taken up an advisory role to alter the image of waste collectors. At the

same time, it has organized activities and competitions in the community, and beautified different recovery points and recovery yards, such as wall painting or public arts, with a view to achieving integration of waste recovery facilities with the community. It has even adopted a five-tier system to praise waste collectors for their excellent performance. Moreover, the Taiwan Government has also upgraded the social status of the waste recovery industry. For example, it recognizes the contribution made by scavengers and provides them with reflective tabards to show its concern about their safety.

Looking back at Hong Kong, do we have any facilities for handling wastes at present? Have we integrated them with the community? Has the Government improved the image of waste collectors? No. Why? Take Kwun Tong as an example. In order to achieve integration among residents in Kwun Tong on this issue, we have requested waste paper collectors to carry out environmental improvements. I always mention Paris as well as Nice in France. There is a street with a lot of famous shops in Nice, and in the middle of this street, we can find a scenic garden. But what underneath is in fact a car park with heavy vehicle exhaust. Deputy President, other people have made tremendous efforts to tackle these problems, but what have been done by our Government? The Government is most pleased to see that residents and green traders stand against each other, and use this power to eliminate them. Is it the way in which our Government should act?

Deputy President, our Secretary is young and energetic — I want to spur the Secretary on — as such, I do hope the Secretary can walk around within the Government and urge it to regard promoting the waste recovery and green industries as an important policy, instead of simply uttering empty words. It seems that the Government is invincible when it talks, but it is powerless when it acts. Eventually, nothing will be able to come out of years of our discussions. Deputy President, with these remarks, I hope such a young and promising Secretary I do not know whether I will still be here in the next term, but if the Secretary can get it done, I will certainly come back to support you. Thank you, Deputy President.

MR CHAN KAM-LAM (in Cantonese): Deputy President, the Democratic Alliance for the Betterment and Progress of Hong Kong fully supports the Government's objective of promoting environmental protection over the past

years. As we all know, the Government has proposed the 10-year Policy Framework since 2005, and over the past few years, it has really made tremendous efforts on environmental protection. I think only if the Government can intensify its efforts, together with the sincere co-operation of the public and the industries concerned, these objectives are achievable.

The green industry should be promoted as it can expeditiously resolve the problems we are now facing, such as landfills. As a matter of fact, some of our landfills still have a life span of 10-odd years, whilst some of them only have a life span of a few more years. How can we handle our household wastes and industrial wastes? This is also a headache to the government of every region. On the other hand, the recycling industry emerged from the waste recovery industry and the green industry has in fact played a very important role in providing job opportunities in the community. At present, in Hong Kong, such kind of waste recovery industries are in fact mostly engaged by people who are low-skilled, old-age and low-qualification. If we do not develop these industries, we have simply turned a blind eye to the employment demand of this large group of people.

(THE PRESIDENT resumed the Chair)

In order to promote these industries, it is necessary for the Government to offer tremendous support in its policies. Let us take a look at what it has achieved in making efforts to establish the EcoPark over the past years: for example, among the six lots of land under phase I, only three of them can successfully be leased for handling waste wood, used cooking oil or computers. As for the other lots, it seems that a lot of troubles have been encountered. Even they are leased, tenants refuse to move in because of some commercial considerations. Therefore, the Government should consider further lowering the rentals and requirements, so as to enable other wastes industries to move in. I think it should further consider these measures.

Moreover, "Sister Han" has also mentioned the waste recovery industries operating in Kowloon Bay and Cha Kwo Ling just now. More than 90% of the waste recovery industries in Hong Kong are located in Kowloon Bay. This also explains that they have in fact paid a huge cost on transportation. For such a

small place as Kowloon Bay, the fact that it can accommodate 90% of the recovery of waste paper in Hong Kong also explains that most of the waste paper has to be transported to Kowloon Bay from various places throughout the territory via the transportation network. Therefore, is it necessary to provide a more desirable place for its long-term development? I think the Government should think about this issue.

It is a fact that the waste recovery industries have caused a lot of nuisance to residents in the district. As we may notice, the recovery industry of waste iron outside the Laguna City in Cha Kwo Ling has all along been a battlefield between residents and waste collectors, where confrontation is very serious. Recently, the Government has terminated the tenancy between the Lands Department and the waste collectors, and stipulated in the new tenancy agreement that no waste recovery industries which will cause noise nuisance, such as the recovery of steel and iron, should be allowed. However, the trades concerned continue their operation in contravention of the condition and engage in a lawsuit against the Government. We consider this problem very serious as it seems that the Government has no ideas how to tackle such non-compliance by tenants. I hope the Government can really pay due attention to these problems. If waste collectors continue their operation in the urban area, it will definitely give rise to endless conflicts with the residents. Therefore, we hope the Government can draw up a long-term planning.

The EcoPark is of course a very good idea. However, how can we enable the relevant trades to have a "follow through" process of waste handling? For example, from waste recovery and recycling to the delivery of these products to the market, it is a very important process to which the Government should offer assistance. As we can see, over the past years, the value of materials we have recovered is in fact on the rise. According to the figures of 2003 provided by the Government, the recyclable materials in 2003 were 2.38 million tonnes, and 2.75 million tonnes in 2007, but their value increased from \$2.5 billion in 2003 to \$6 billion in 2007. These figures show that although the quantity increased just about 17%, the value was more than doubled. In view of this, it is really possible for us to conduct recycling in Hong Kong and then put the products on sale locally. Therefore, I keenly hope that the Government can further explore ways to enable this industry to lay its foundation and develop in Hong Kong.

Moreover, I also hope that the Government can consider thoroughly how to balance conflicts between the waste recovery industries and the residents in the urban area. I hope this problem can find a long-term solution, so that the industries can continue their operation whilst the public will not be troubled by nuisance. Thank you, President.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, during the 1970s and 1980s, many concern groups for environmental protection were established in Europe. In particular, some political groups even formed political parties named as green parties, and received great support from the public. Members of these green parties in some countries could even be elected as council members, contesting a seat in the council and putting forward proposals on environmental protection. Regrettably, Hong Kong is really slow in this regard. Not only the Government but also the public is slow. It was only until the 1980s or 1990s when special public concern started to focus on issues of environmental protection. Nonetheless, the public put forward many proposals, hoping that they will be accepted by the Government. However, the Government is really lagging far behind in this regard. It is not until now when it has started enacting the so-called green legislation. Several Honourable colleagues have mentioned just now that we will only start discussing about the imposition of levy on plastic bags next week. It seems that our pace is really very slow, as the other countries have already had such legislation in place for nearly 20 years whilst we have not implemented it until now.

Nevertheless, President, even the Government can accept such a slow pace, it should review its mentality on this issue. Why do I have such a comment? It is because I think the Government has a mentality that with a green tax to be imposed soon, it seems to be relieved from a big burden, just like putting down a huge rock. However, is it really the case that the problem can be solved with the imposition of levy on plastic bags? We just put aside other problems from the time being. But can the problem be solved with the imposition of levy on plastic bags? President, I do not think so. Why? Ms Audrey EU has already quoted that as estimated by the Government, the green tax will fetch \$200 million for Hong Kong. The revenue of \$200 million is

equivalent to the fact that many plastic bags have been used. In other words, the use of plastic bags will not be reduced, but will only be replaced by money. The public will still use plastic bags and the problem will not be resolved. Therefore, I do not consider that imposing levy on plastic bags is equivalent to protecting our environment. Only that we can fetch some money from the levy, with an aim of dissuading the poor or those who are not willing to pay to use plastic bags. However, the rich, the luxurious or those who are willing to spend money for the sake of convenience can still use plastic bags. President, this means that our community will still be polluted, having little impact on environmental protection. Therefore, even the Bill concerning the imposition of levy on plastic bags can be passed next week, I do not consider that the Government can heave a sigh of relief as the problem still exists. How can we solve the problem of using plastic bags by the public? The Government has made every effort to do so and has resorted to the imposition of tax. However, if the public still use plastic bags, what can we do? I wish to ask the Government, what can we do? I think the imposition of tax is not exactly a solution.

I think most importantly, besides the 3R mentioned by Ms Audrey EU just now, that is, reduce, reuse and recycle — reduce means we reduce the use but still use them; reuse means we use them again; recycle means we collect and transform them into other products, the question is that the problem cannot be resolved. What is the best solution? The answer is: do not use plastic bags. For example, the problem of plastic foam is particularly serious as it is non-degradable. Generally speaking, we are now using plastic foam for everything. For instance, the McDonald and many fast food shops use plastic foam. Primary students' lunch boxes are made of plastic foam as well, which are piling up like mountains. This is the real big trouble. However, I notice that in overseas countries, plastic foam boxes are not used to contain food, paper boxes are used instead. Paper boxes are degradable. Why does our Government not think about the problem from this angle? The best way is neither "reuse" nor "reduce", but is "not to use". That is to say, we do not reduce the use, but do not use it completely, right? President, this is the most important point.

I remember when I was studying in the United Kingdom in the 1970s, I did not use plastic bags when I bought food, canned food and necessities at supermarkets. What did I use? I used paper bags and paper boxes but not

plastic bags. I think in so doing is meaningful. As such, I think the Government should consider such a practice, rather than adopting a simple and convenient approach. It is very convenient to impose a levy. Why? It is because all we need to do is to formulate the legislation and require everyone to pay tax. We can then justify ourselves to the community, showing that we have made some efforts. President, I think this is only a way to cheat ourselves and others, as there are still many people using plastic bags, right? Why do we not encourage the use of other materials as an alternative of plastic bags? This is the most important point and that is the fact. Why do we not consider using other alternatives?

Moreover, why do we not make more efforts in education? As we all know, advancement in technology brings convenience to the public, and using plastic bags is a kind of convenience. In the past, when we went shopping in markets, we did not use plastic bags but newspapers and reeds instead. It is more convenient now as we have plastic bags. Technology gives us convenience but also generates pollution, bringing our community a pollution problem. As such, we should consider the other technological methods to see if we can use some products which will not cause pollution. It is meaningful to do so, right?

CHAN Yuen-han has praised our young and promising Secretary just now. I do hope that he is really young and promising, and can design for us some new products which will not cause pollution anymore, rather than just adopting such a simple approach to impose levy. The problem seems to be resolved, but in fact, it is not the case and the problem still exists. I think it is meaningful only after we give it a thought. For example, I really wish to ask the Government why it does not consider encouraging people to use other alternatives.

Recycling or proactively promoting waste recovery that we are discussing today is of course the main direction, and we also agree to it. However, as mentioned by the Secretary just now, we agree to the main direction, but for the detailed arrangements, our requirements may not be the same. This is the crux of the question. For example, we agree that we should curb pollution by stopping to use plastic bags, but for the detailed arrangements, if we adopt the approach of imposing levy, I do consider that the solution should not be so simple. As such, what should we do? I think we should not adopt the

approach of imposing levy. Rather, we should stop using this product. This is the best solution as only using other alternatives is meaningful.

Therefore, I hope the Secretary can really follow what Miss CHAN Yuen-han has just mentioned and come up with more new ideas and new mentality, as well as design for us some new products, rather than just following the usual practice of the Special Administrative Region Government by adopting some simple and convenient approaches to get things done, as these approaches are with little effect. I hope the Secretary can adopt some effective approaches to deal with this problem.

President, I so submit.

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

MS MIRIAM LAU (in Cantonese): Madam President, as we all know, the Government keenly hopes that the Product Eco-responsibility Bill can be passed in this Legislative Session, and next week will be the critical moment of voting. The motion on "Proactively promoting waste recovery and recycling" proposed by Mr Vincent FANG of the Liberal Party today serves to remind the Government that it should not just rely on the method of imposing a ban by levying a tax in order to achieve waste reduction, as the outcome may not be "imposition resulting in reduction ". On the contrary, if the Government continues to evade from formulating a comprehensive proposal for the development of the recovery trades, to put it harshly, it is just like the story of the Emperor's New Clothes, cheating ourselves as well as the others. It is completely of no help to resolve the problem at source.

Taking vehicle tyres as an example. It is very likely that they will become the target of levy in the next stage. However, tyres are necessities of vehicles. The imposition of levy can hardly help reduce the use of tyres. Rather, it will only impose an extra burden on vehicle owners and the transportation industry. Why does the Government not consider encouraging recovery and recycling to see if it is feasible to recycle more tyres into useful materials, so as to relieve the pressure on landfills?

If we take a look at the "Monitoring of Solid Waste in Hong Kong" published by the Environmental Protection Department (EPD) last month, we will find that waste tyres being dumped at landfills have decreased from 18 000 tonnes in 2005 to only 4 380 tonnes in 2007, representing a sharp drop of 76%. According to waste collectors, this is due to the soaring demand for waste tyres by neighbouring regions in recent years.

In fact, this also explains why we request the Government to enhance its support for the development of local recycling industries. It is because 99% of the wastes recovered in Hong Kong at present will be exported for recycling, which can be regarded as over-reliance on exports. If there is any slight upset outside Hong Kong, such as a decline in demand for wastes or a rapid drop of price, all these wastes may have to be returned to landfills in Hong Kong. Under such circumstances, even the Government imposes a tax, it may not be able to avoid wastes from piling up at landfills. On the contrary, if local recycling industries experience healthy development, our demand for wastes can be on the increase. By that time, as "wastes have their value", the pressure on landfills can naturally be relieved.

Regrettably, although the Government has announced to develop the recovery and recycling industries time and again in recent years, we still cannot see any achievements. The EcoPark in Tuen Mun gives us a very painful experience. We have spent \$300 million for its construction. However, over the past two years, tenants kept on moving in and out, and none of them could operate successfully. Many operators blamed that ancillary facilities in the EcoPark were insufficient; whilst some criticized that its management was in a mess. In a nutshell, this grand plan, which was supposed to create 750 job vacancies, has so far been getting nowhere.

The EPD advised earlier that three lots of land had been granted again for the recovery of waste wood, used cooking oil and computers. It is expected that operators concerned can start their business by the end of this year, and the authorities have also lowered the threshold of tenancy requirements. The Liberal Party welcomes it and hopes that the authorities can strengthen their liaison with the potential tenants and endeavour to improve the facilities within the EcoPark, with a view to attracting more tenants to operate there. As such, it can avoid the EcoPark from becoming a huge white elephant.

More importantly, the Government should proactively assist the whole recovery and recycling industry on all fronts, such as further assisting them in waste collection by "eliminating all the unnecessary restrictions", so as to reduce restrictions arising from complicated formalities to help them establish and develop.

Lastly, the Liberal Party considers that before the imposition of levy on the other five types of products set out in the Product Eco-responsibility Bill (that is, vehicle tyres, electrical and electronic equipment, packaging materials, beverage containers and rechargeable batteries), the Government should review the effectiveness of the imposition of levy on plastic bags first, for example, the actual change in the quantity of plastic bags used and the effectiveness of recovery and recycling. At the same time, it should also fully assess the impact on various parties (including the public and the trades).

Let us take electronic products as an example. According to the calculation made by the trades earlier, the cost of recovering a computer together with its monitor ranges from \$100 to \$150. These figures are for the reference of the Government, showing that the trades have all along been willing to work in parallel with it. However, who exactly should be responsible for this cost? Should it be borne by consumers, manufacturers or the Government? In fact, it is still an unknown, and the trades remain very concerned about this outstanding problem. I consider that the Government should get well-prepared to communicate with the trades on these detailed arrangements first before having thorough discussions on the imposition of levy.

On the contrary, if the Government imposes the levy rashly without considering its effectiveness or objective and making proper preparation, we are very worried that while additional burden keeps putting on both the trades and the general public, there will be little effect on reducing wastes and saving the environment.

Madam President, I so submit.

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

(No other Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wishes to speak, Mr Vincent FANG, you may now speak on the three amendments. You have up to five minutes to speak.

MR VINCENT FANG (in Cantonese): Madam President, my proposal of this motion today does not aim at having one more motion of the Liberal Party passed at the last moment. I just want to point out that the imposition of a fee or a tax is not an effective way of reducing wastes. Same as the Government, I have considered the issue from the perspective of money. But what I hope is by recycling, wastes will have their value, which will in turn promote waste recovery, and we can reduce wastes and protect our resources as a result. On this premise, both the Liberal Party and I will not object to the three amendments proposed today, but we have different opinions regarding certain points.

Honourable colleagues, please do not think that the wholesale and retail trade objects to environmental protection. Such a mentality is wrong. The fleece comes off the sheep's back. If we keep on asking the Government to impose a tax on these wastes, consumers, that is, the people of Hong Kong, will have to shoulder the cost eventually. Therefore, those colleagues who are concerned about people's livelihood should see clearly who the victims are. If the Secretary accepts the variable rate charging scheme for refuse proposed by Miss CHOY So-yuk, he may have to seek funding from the Financial Secretary to provide subsidies for the CSSA households and low-income families, so as to assist them in paying these charges.

We generate more wastes today, which is not due to the proliferation of consumerism but the advancement of the times. For example, I wonder the oil cans, soy sauce bottles and washing powder boxes in our kitchens are equivalent to how many plastic bags. Although all three Honourable colleagues have suggested an expeditious implementation of the producer responsibility scheme for the other five waste products, it is in fact not possible for us to use the method of imposing a ban by levying a tax for each type of waste product. The most effective way is recovery and recycling.

I am very delighted that Ms Audrey EU has also noticed that government departments work separately in handling waste, resulting that the work on waste recovery has failed to yield satisfactory results. Therefore, I suggest extending

the scope of purview of the Environment Bureau, so that it can formulate and take charge of the policies and work on waste recovery.

Miss CHOY So-yuk has deleted item (b) of my motion and proposed to establish a dedicated department. Does she mean that another new bureau should be established in addition to the Environment Bureau? However, the Liberal Party has all along been objecting to duplication and fragmentation. I hope this duty will remain the responsibility of the Environment Bureau.

As for the expansion of the EcoPark, the Liberal Party gives it our support on the premise that policy on waste recovery should be devised first, so as to ensure sufficient raw materials for production for the recycling industries. Secondly, investment in the recycling industries should be promoted to ensure the worthiness of the expansion of the EcoPark. Otherwise, it will be a case like the EcoPark today, which is still at the tendering stage. Therefore, we agree to regulate the recovery trades so as to promote their development.

Miss CHOY So-yuk has proposed that we should proactively examine the feasibility of implementing a licensing regime for waste collectors. Of course, we will not be against this proposal. However, we should make sure that the prospect of the waste recovery trades will not be throttled by this licensing scheme.

The amendments proposed by our colleagues reflect that we all hope the Government can make greater commitment to the promotion of recovery and recycling. Therefore, the Liberal Party supports all the amendments. Thank you, Madam President.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Madam President, Honourable Members, I am very glad to listen to a number of suggestions on waste recovery, recycling and waste reduction raised by Members to the Government regarding the motion in a very positive and proactive manner. Members have also reviewed the work progress of the Government since the implementation of the Policy Framework in 2005. However, if individual Members regard the Product Eco-responsibility Bill (the Bill) on which we will resume the Second Reading debate next week as the only tactic of the Government to achieve waste reduction or promote waste recovery,

it seems that they have used just one case to conclude the whole plan. In choosing the imposition of levy on plastic bags as a pioneer of the Bill, we have no intention to stand against supermarkets or certain types of consumers. In fact, among various products, people of Hong Kong each throws away three plastic bags every day. This is the type of product which can be reduced more obviously among various products we have been discussing in the past. I also fully agree to the view put forth by some Members that the imposition of a levy itself is neither the only nor the best method. The imposition of levy does not aim at putting more revenue into the government coffers. Rather, we hope that waste generation can be reduced by this means.

The general public will not find the problem of waste generation strange as we are generating various kinds of wastes every day. With the efforts put in environmental education over the past years, we are in fact aware that landfill alone is not a long-term solution for waste disposal, especially when our three existing landfills will be full one after another in the coming four to eight years. Waste disposal is not a distant problem. In view of its urgency, since my assumption of duty, we have been proactively formulating legislation, implementing policies, planning facilities and stepping up publicity, with a view to striving for improvements.

As I mentioned earlier, the Policy Framework was already put in place in 2005. And over the past year, some new measures have gathered momentum gradually. For example, regarding source separation of domestic waste, a programme was launched in January 2005 to provide facilities for source separation at different selected locations. As at the end of May in 2008, there were nearly 900 housing estates participated in the programme, which involved 1.1 million households and 3.32 million residents, representing 47% of the population in Hong Kong. According to the report published by the housing estates participated in the programme, since their participation, the amount of wastes recovered has increased by more than 60% whilst the amount of wastes discarded has reduced by 10% on average. We will continue to implement this programme.

As we all know, we will propose to the Legislative Council that with effect from December 2008, we will, by virtue of amending the Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) Regulation, require new residential buildings to provide refuse storage and material recovery

room on every floor to facilitate the residents to participate in source separation of domestic waste. We also hope that the relevant amendments can be implemented in this Legislative Session (that is, within these two weeks).

As for commercial and industrial (C&I) waste, its recovery rate has been maintained at a higher level, which is above 60%. However, as mentioned by several Honourable Members, the amount of C&I waste dumped at landfills has been on the rise, which is attributed to economic activities. In view of this, the Programme on Source Separation of Commercial and Industrial Waste was launched in October 2007. This programme aims at commending those C&I buildings which have implemented source separation and encouraging those which have yet participated in the programme to join. As at mid-June this year, a total of 396 C&I buildings have participated in the programme, including offices, shopping arcades, industrial-cum-office premises and government offices building. We hope that efforts in this regard will continue.

Moreover, we have also provided about 28 000 waste separation bins at various locations throughout the territory. Since 2006, materials acceptable by the three-coloured waste separation bins at public places have extended to all kinds of waste paper, plastic materials and metal articles for recycling. Contractors commissioned by the Food and Environmental Hygiene Department are responsible for the waste collection of these bins. Although the materials recovered from these bins only account for a portion of the overall waste recovery in the territory, I believe that the provision of these bins helps remind residents of waste recovery from time to time, so as to enhance public education.

As for the product eco-responsibility scheme, several Honourable Members have mentioned that the Bill, as a start, is nearly completed. I also wish to stress once again that the Bill is an important framework legislation, which provides a legal basis for implementing the producer responsibility schemes for different products. The Bill sets out different approaches, including mandatory recovery, charging of recovery fees and deposits in advance and even the imposition of a levy. Apart from proposing the imposition of levy on plastic bags, the products involved in future may also include electrical and electronic equipment, tyres, beverage containers, and even other packaging materials and rechargeable batteries. We hope to pave the way for more extensive and in-depth waste recovery through the enactment of legislation.

The imposition of levy on plastic shopping bags is the first scheme implemented under the Bill. We hope that by realizing the "polluter-pays" principle, the indiscriminate use of plastic shopping bags can be reduced by providing economic incentives.

As mentioned in Mr Vincent FANG's motion and speeches made by some Members, the Bill has not stipulated any complementary measures for recovery and recycling of plastic bags. I wish to stress that the most effective way to solve the waste problem is neither recovery nor recycling, but waste reduction at source as mentioned by a number of colleagues. With respect to the levy on plastic bags, we hope this levy can minimize the use of plastic bags (especially unnecessary ones) by the public in a more effective way.

In view of Members' concerns, we have funded some green groups recently to support their provision of recovery bins in large shopping arcades of The Link for collection of used plastic bags as one of the complementary recovery measures. We have also written to the Hong Kong Retail Management Association to invite its members (including supermarkets or major chain stores) to join and support the recovery activities of plastic bags. Regrettably, we have just received a reply from the Association, saying that due to hygiene reasons, it cannot join this programme for the time being. Although we are a little bit disappointed, we will not be discouraged. Just before this meeting, Mr Vincent FANG has undertaken to act as an intermediary between the Government and the trades to step up discussions on the feasibility of extending recovery work to other areas through these organizations.

Ms Audrey EU has mentioned in her amendment that we should use the environmental levy to set up a green fund. I wish to take this opportunity to reiterate that we have no plans to bring in more revenue for the Treasury by imposing the green levy. The green levy just provides an economic incentive to encourage the public to bring along their own shopping bags and reduce the use of plastic shopping bags. The fewer plastic bags used by the public, the more successful is the whole scheme. We do not expect the levy will bring in huge revenue. Therefore, it is not possible for the levy to provide funding support for environmental-friendly activities. In fact, when we introduced this scheme last year, we also sought funds from this Council at the same time to inject \$1 billion into the Environment and Conservation Fund (ECF), and this amount is much greater than that can be fetched by the green levy in the first year.

Therefore, we hope to make it clear to the public here that the imposition of levy does not aim at generating revenue for the Government.

As for the inclusion of other products under the producer responsibility schemes, as I have just mentioned, we have introduced the Computer Recycling Programme and the Fluorescent Lamp Recycling Programme throughout the territory in the first half of this year. A number of local and international suppliers of computer products or other enterprises have participated in these programmes. Our target is to subsidize the recovery and recycling of 50 000 used computer products each year during the first two years of implementation. As for the Fluorescent Lamp Recycling Programme, it is organized and funded jointly by 15 suppliers. The target for the first year is to recover about 400 000 energy-saving bulbs and fluorescent tubes. The trades have all along shown their support since the implementation of these two programmes. As I have also mentioned just now, we will adopt a voluntary approach for certain trades and these programmes will be funded and participated by the trades and enterprises. This will help the promotion of recovery within the trades. However, we have received a lot of different views, including those from the trades, saying that instead of merely relying on voluntary participation, it would be better to formulate legislation directly to implement extensive regulation. We have listened to the views on these two aspects and will take them into account when we introduce the producer responsibility scheme in the future.

Madam President, I also wish to give a brief account on the work of the EcoPark mentioned by the Honourable Members.

Since the establishment of the EcoPark in Tuen Mun Area 38, among the six lots in Phase I, four of them have so far been granted for the recycling of waste wood, used cooking oil, computers and waste plastics. Three tenants are working on their building plans in a bid to start operation at the end of 2008. As for the tenant who has recently been granted a lot for waste plastics recycling, liaison with the architect for plant design and the submission of building plans are now underway. Meanwhile, the Environmental Protection Department will, as usual, provide tenants with various kinds of support and professional advices to facilitate them to start up their business. We will also adopt the views put forward by the participating enterprises earlier, so as to improve the arrangements for the granting of other lands in the future.

Madam President, some Members have touched upon the facilities for incineration. I think the Government of course does not hope to adopt incineration as the only alternative for landfills at present. In fact, it is not feasible as Hong Kong generates about 17 000 tonnes of municipal solid waste (MSW) every day, and less than half of the amount is recyclable, that is, we have to deal with nearly 9 000 tonnes of wastes every day. The three existing landfills can hardly cope with them. As such, we plan to establish an integrated facility to handle the MSW by mid-2010s, including facilities for incineration. However, this can only handle one-third of the remaining wastes, and for the rest of the wastes, we have to handle them through recycling, waste reduction and disposal at landfills.

Regarding direct funding, as I have just mentioned, with an injection of \$1 billion into the ECF, we hope to extend our work on waste reduction and launch public education and public engagement campaigns on waste reduction, recovery and recycling throughout the territory. Moreover, we also want to use the ECF to provide technology transfer, demonstrative and promotional projects on waste reduction to professional groups, and hold regional and international technology conferences to encourage exchanges among professionals. We are committed to continue to reinforce our efforts in these aspects, with a view to striving for better results.

The outlet of recycled products has all along been a matter of our concern, and the Government is duty-bound in this regard. We have stipulated in the Stores and Procurement Regulations the requirement to consider not only the tendering price, but also environmental factors to purchase products that are recyclable, with higher energy efficiency, greater durability and higher recycled contents as far as possible. The Government has also developed green specifications for a range of commonly used products, so as to enhance the market demand for green products. We also agree that there is still ample room for the Government to develop green procurement. Therefore, we undertake to work with the departments concerned to review and expand the green procurement list of the Government, so as to promote the development of the market of green products.

Madam President, Miss CHOY has mentioned the recovery of food waste in her amendment. I have advised in the relevant panel that a pilot project has been launched to install a trial food waste treatment plant in the Kowloon Bay

Waste Recycling Centre for collection of source-separated food waste from the C&I sectors. We will also develop the first phase of an organic waste treatment facility in Siu Ho Wan on Lantau Island. The facility will adopt biological treatment technologies to recycle food waste to useful compost and renewable energy.

Madam President, I notice that the problem of illegal dumping has been mentioned in an amendment, but the Member has not talked about this in her speech. I have attended meetings of the panel which is responsible for environmental issues and have replied questions in this regard, and so, I am not going to repeat my replies here. Simply speaking, cracking down fly-tipping is one of the key enforcement roles of the EPD. Apart from this, we also undertake to work jointly with other relevant departments to enhance the work in this regard and explore whether it is possible to give more power to the Government through amending the legislation to curb fly-tipping.

Madam President, regarding the issue on waste recovery, I think Members have a feeling of not being able to make the mark. In fact, the Government shares this feeling with Members when introducing new bills or new policies. As such, I believe that no matter whether during the scrutiny of bills in the past or the introduction of new policies in future, the Government can work collaboratively with Members and reinforce our efforts, and hope that when introducing new policies, we can continue to get support from this Council.

I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Miss CHOY So-yuk to move her amendment to the motion.

MISS CHOY SO-YUK (in Cantonese): President, I move that Mr Vincent FANG's motion be amended.

Miss CHOY So-yuk moved the following amendment: (Translation)

"To delete ", as" after "That" and substitute with "Hong Kong's economy and population keep growing, coupled with the proliferation of consumerism,"; to delete "in Hong Kong" after "the amount of waste

generated"; to delete "the Hong Kong Government has no dedicated department responsible for waste recovery and no policy to encourage the recycling industries to recycle local waste" after "yet" and substitute with "Hong Kong has no clear policy and effective measures to implement separate recovery and reuse of waste in a comprehensive manner"; to delete "establish a dedicated department under the Environment Bureau to formulate a policy on recovery of recyclable waste, and enhance its collaboration with the Food and Environmental Hygiene Department, which is responsible for handling refuse, to implement separate recovery of recyclable waste;" after "(b)" and substitute with "establish a dedicated department and allocate more resources to consolidate an administrative framework related to waste handling and recovery which will be responsible for running a follow-through work process from source separation, material recovery, waste collection to waste disposal, and at the same time enhancing the efficiency of waste handling and recovery;

(c) expeditiously implement the legislative work for other products mentioned in the Product Eco-responsibility Bill so as to reduce waste generation and increase incentives to recover waste, and promote the industrial activities relating to the recovery and reuse of resources; (d) expeditiously implement the 'variable rate charging scheme for refuse' to fully achieve the polluter-pays principle, so that the public would undertake their own eco-responsibilities, and through economic incentives, encourage the public to proactively participate in waste separation and recovery, with a view to ultimately pursuing the objective of waste avoidance at source; (e) devise an effective mechanism for bulk recovery of food waste, set up more facilities for recovery and reuse of food waste, review the present land use restrictions to encourage private organizations to engage in industries related to the recovery and reuse of food waste, and procure fertilizers converted from locally recovered food waste by the Government for use on plants grown in gardens and on roadsides;"; to delete the original "(c)" and substitute with "(f)"; to add "proactively examine the feasibility of implementing a licensing regime for waste collectors, so as to" after "waste collectors, and"; to delete "and promote their development; and" after "regulate the recovery trades" and substitute with ", thereby minimizing the disturbance of the trades to the public and promoting the development of the recovery trades;"; to delete the original "(d)" and substitute with "(g)"; to add ", expand the scope of 'EcoPark' and improve the infrastructural facilities and leasing conditions" after "taxation or land, etc."; and to add "; (h)

formulate a green procurement policy with the Government taking the lead in requiring all departments and contractors to comply with it, so as to provide steady outlets for green products; implement a green certification and labelling system, as well as establish a database to facilitate the Government, private organizations and the public to identify when procuring such products; and (i) adopt effective measures to appropriately address the problem of illegal dumping, so as to minimize improper disposal of recyclable materials" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss CHOY So-yuk to Mr Vincent FANG'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 Miss CHOY So-yuk's amendment has been passed, Mr SIN Chung-kai has therefore withdrawn his amendment.

PRESIDENT (in Cantonese): Ms Audrey EU, as the amendment by Miss CHOY So-yuk has been passed, I have given leave for you to revise the terms of

your amendment, as set out in the paper which has been circularized to Members. You may now move your revised amendment.

MS AUDREY EU (in Cantonese): President, I move that Mr Vincent FANG's motion as amended by Miss CHOY So-yuk be further amended by my revised amendment.

Ms Audrey EU moved the following further amendment to the motion as amended by Miss CHOY So-yuk: (Translation)

"To add "; and (j) use the proceeds from the levy on plastic bags to set up a green fund to encourage waste reduction and recovery work" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Ms Audrey EU's amendment to Mr Vincent FANG's motion as amended by Miss CHOY So-yuk 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 Vincent FANG, you may now reply and you have three minutes 15 seconds.

MR VINCENT FANG (in Cantonese): Madam President

PRESIDENT (in Cantonese): (*Laughter*) A bird has fled into this Chamber.

MR VINCENT FANG (in Cantonese): Honourable colleagues, we have attended this meeting for two days. President, you and Members

(There was still a sound)

PRESIDENT (in Cantonese): Mr Vincent FANG, please go on.

MR VINCENT FANG (in Cantonese): Madam President, Honourable colleagues, we have attended this meeting for two days. Madam President, as you and a number of colleagues are going to visit Sichuan tomorrow, in order to finish this long meeting earlier, I am not prepared to speak too much.

First of all, I wish to thank Honourable colleagues for giving their support to the motion today. Members have spoken to express their hope of urging the Government to extend the scope of the producer responsibility scheme expeditiously. I have also stressed repeatedly in my speeches that the imposition of levy is a compulsory means to promote environmental protection, which cannot alter the public's habits completely. What we have to do is to offer them patient guidance gradually and encourage them to form new habits. Therefore, I hope the Government can make effort in promotion as a start before introducing such a compulsory measure. I also hope to see that the Secretary can expedite recovery work and promote recycling policies. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Vincent FANG, as amended by Miss CHOY So-yuk and Ms Audrey EU, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): Motion on Adjournment.

PRESIDENT (in Cantonese): Under Rule 16(7) of the Rules of Procedure, I determine that the debate will come to a close at the time when all Members who wish to speak have spoken, and the designated public officer has given his reply. As regards the speaking time, each Member may not speak in excess of five minutes, and the public officer making a reply has up to 15 minutes to speak. It is now 9 pm, the debate shall now proceed.

I now call upon Mr Tommy CHEUNG to speak and move his motion.

MOTION FOR THE ADJOURNMENT OF THE COUNCIL

MR TOMMY CHEUNG (in Cantonese): Madam President, I move that this Council do now adjourn for the purpose of debating the predicament faced by the live poultry trade.

Madam President, the first case of human infection of avian influenza was identified in Hong Kong in 1997. Since then, the live poultry trade has all along been living in constant fear. However, up to this June, there are still 469 live poultry stalls, 52 live poultry farmers, 71 wholesalers, 250 transporters and thousands of workers in the trade. They dare not give up, but on the contrary make every effort to take preventive measures against avian influenza. As such, from 2003 to June this year, avian influenza has only been found in wild birds but not other live poultry.

They stand fast for the live poultry trade for some simple reasons. First, the people of Hong Kong still want to buy fresh live chicken. Second, most of the members of the live poultry trade are middle-aged workers with low skill and low education attainment, who inherit the business from their families and joined the trade when they were young. You can imagine how difficult it will be for them to change to employment in other fields?

However, for the last decade or so, the Government has just turned a blind eye on the difficulties faced by the live poultry trade, worse still, it adopts all kinds of tactics to try to wipe out the live poultry trade and make it disappear. The recent actions taken by the Government against the live poultry trade speak volume about this. Therefore, I must propose the motion for adjournment today to let Members have a clear understanding of the situation.

First, in the first half of June, avian influenza virus was detected in the chicken faecal samples collected from only a few wet markets of the Food and Environmental Hygiene Department (FEHD), and no single live chicken was found infected by avian influenza. However, instead of tracking down the source of the infection, the authorities required chicken retailers to cull the chickens. It also required all chicken farmers, wholesalers, transporters and chicken retailers to cease operation. There was no justification in doing so.

Later, the authorities proposed the arrangement on the "prohibition of overnight stocking of live poultry at retail outlets" (ban on overnight stocking). It pushed through the arrangement by publishing it on the Gazette to circumvent the Legislative Council, stipulating that from 2 July onwards, live poultry at all retail outlets should not be kept overnight, and this was made a prerequisite for resuming the sale of live chickens.

If avian influenza virus is detected in chickens, the risk of spreading the disease exists also in broad daylight. The key is whether the Government has done its best to combat the smuggling of chickens and ensure that live chickens from registered farms are healthy.

Nevertheless, the authorities overlook its own responsibilities and push through the "ban on overnight stocking". It is indeed trying to drive the live poultry trade out of business. Once the "ban on overnight stocking" is imposed, the public will just have to wait until the close of play, when prices of chickens are cut to promote sales, to compete for the unsold chickens. Live poultry retailers will then become processing workshop. Their profit will drop significantly and they will even fail to recover their costs.

Actually, from start to finish, the authorities have no sincerity in implementing the "ban on overnight stocking" arrangement properly. There is only one place in this world that has implemented the "ban on overnight stocking", and that is Macao. The population of Macao is only 540 000. There are only 40-odd live poultry retailer licenses and the number of those operating on a regular basis is even smaller. Besides, these stalls are close to the only live poultry wholesale market in the territory, retailers may go to the wholesale market to refill their stock any time when their chickens are sold out. This is different from the situation in Hong Kong where live poultry retail stalls are scattered all over the territory. The authorities can in no way provide the kind of facilities for the implementation of the "ban on overnight stocking", as the authorities in Macao do. Nonetheless, the authorities try to deceive society at large with this arrangement which sounds readily acceptable to the public.

To speak straight to the point, the "ban on overnight stocking" is only a tactic adopted by the authorities, for it requires that the sale of live chickens can only be resumed if the trade accepts the "ban on overnight stocking". But the objective of the ban is to wipe out the trade and force the members of the trade to hand over their licenses obediently. Otherwise, the sale of live chickens will be stopped forever while members of the trade will be deprived of their means of living, and they are also forced to hand over their licenses in the end. This double-edged sword is put on their neck to force them to hand over their licenses. There is indeed no room for negotiation. It is simply totalitarian.

Let me remind the authorities, if they keep acting this way, the people will be compelled to resist. I hope that Members will not be cheated by these dirty

tactics of the authorities. Members should all support the resolution to be proposed by Mr Albert CHAN next Wednesday, which aims to repeal this legislation and put the live poultry trade on a level ground to negotiate with the Government on the way forward.

On the other hand, I welcome the Government willingness to offer a compensation package amounting to more than \$1 billion. However, the Government demands that the compensation package will only be introduced if nearly 90% of the retailers are willing to cease operation. I think this arrangement lacks flexibility.

Indeed, many experts around the world, including Professor Frederick LEUNG of the School of Biological Science at the University of Hong Kong, said that there was no scientific evidence that the risk of avian influenza could be reduced in the absence of live chickens. In overseas countries, such as Canada, live chickens are also put on sale in China Town. How can the authorities be so sure that the sale of live poultry at wet markets will be as dangerous as scourge and flood?

Besides, the compensation package should concurrently take into account the difficulties faced by importers of day-old chicks and feed suppliers. The authorities said that they did not know those two trades well enough and refused to offer compensation. This excuse is unjustified.

I hope Secretary Dr York CHOW will stop acting obstinately and handle a social issue purely from a doctor's perspective. I hope he will also consider the issue from a pragmatic perspective, taking into account the needs of society and the difficulties faced by the trade, progressing steadily to balance the interest of various parties.

Madam President, I so submit.

Mr Tommy CHEUNG moved the following motion: (Translation)

"That this Council do now adjourn for the purpose of debating the following issue: Predicament faced by the live poultry trade."

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

MR CHAN KAM-LAM (in Cantonese): Though we are talking about issues on avian influenza today, I hope Mr Tommy CHEUNG can recover from the "human flu" soon.

Recently, avian influenza and compensation for the trade have been the talk of the town. The Government has proposed a compensation package of a colossal and unprecedented amount, with a view to stamping out avian influenza in Hong Kong forever. In view of its good motives, the public tacitly though, reluctantly, supports the proposal. Though live chicken is the favourite food of members of the public in general, once it comes to the protection of public health, they have to face the reality no matter how reluctant they are. Fortunately, the Government has come up with a conciliatory proposal, that is, the "ban on overnight stocking of live chickens", so that members of the public may continue enjoying their favourite cuisine. Yesterday was the first day of the resumption of sale of live chickens, queues were found outside live chicken stalls, and all live chickens were sold out early in the morning. This is evident that live chickens are really popular. Only a limited number of stalls resumed business on the first day, which is understandable, for they did not know what the actual situation would be like and so they chose to wait and see. Besides, they did not know how to cope with the new operation environment. However, more and more chicken retail stalls decide to reopen today. That means they are all considering continuing their business instead of accepting the compensation to cease operation. The Democratic Alliance for the Betterment and Progress of Hong Kong supports the "ban on overnight stocking", for this is after all a proposal which can strike a balance between protecting public health and ensuring the survival of the trade.

Nonetheless, we think that the horror of avian influenza this time around was sparked off by live chickens smuggled into Hong Kong. Farmers, retailers and transporters of live chickens only focus on seeking compensation from the Government, but they are unwilling to review the incident and identify smuggled live chickens as the culprit. The illegal acts done by the black sheep of the trade recently have cast a dark shadow over the entire trade. Since they are only concerned about reaping exorbitant profit for themselves, they dare to run the risk to engage in illegal activities and take advantage of the inadequacy in

regulation. Not only do individuals suffer loss as a result, the entire trade has to face the possibility of closing down because of these people. These smugglers should be fiercely denounced and subject to the sanctions of law. Unfortunately, members of society in general fail to attach importance to combating the problem of smuggled live chickens.

At present, registered farms for supply of poultry to Hong Kong and local chicken farms must pass stringent quarantine measures before their products can be put on sale on markets. In this incident, no sign of any spread of avian influenza was found in local chicken farms and mainland chicken farms, it was thus extremely unfair to cull their chickens and close their operation. No wonder some chicken farmers refuse to accept the colossal compensation and insist on continuing with their operation. They even go further by proposing the acquisition of retailers' licenses, aiming at implementing a one-stop approach from chicken breeding to the sale of chickens. Their perseverance and endurance command our respect.

We propose that the Government should step up its efforts in combating smuggling activities of chickens and review the penalty for smuggling chickens, so as to stamp out chicken smuggling activities effectively. Despite the introduction of the "ban on overnight stocking", the risk of avian influenza will still exist if the problem of chicken smuggling is not solved.

Now, there is a saying that having live chickens means giving up health protection. It seems to suggest that "live chickens" and "health protection" are antithetical and we can only choose either one of them. However, if sound measures and matching policies are put in place, complemented by the co-operation and endeavour of the trade and the public, we believe we can have both of them. We hope that the Government and the trade can come together to have rational discussions on the solution to the problem and make the best decision for the long-term development of the trade.

Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, in fact, apart from Mr Tommy CHEUNG, I have also applied to you, President, earlier for proposing an adjournment motion on the live poultry trade at this Council meeting.

President, I am not a member of the poultry trade, however, I believe that the problems faced by the live chicken trade recently have not only affected the business prospects of the trade but also the many wage-earners in the trade as well. Besides, it involves one major issue, that is, whether the traditional culinary culture of live chicken will disappear in Hong Kong, a Chinese society.

President, in less than a month, the Government has acted without prior consultation and adequate discussion in society and pushed through the subsidiary legislation to implement the mandatory measure of "no overnight stocking of live poultry at retail outlets" (ban on overnight stocking) with effect from yesterday. To put it directly, this policy is a "blatant plot" of Secretary Dr York CHOW, who hopes that by means of the "ban on overnight stocking" and the compensation package for the surrender of licenses from the live chicken trade, the live chicken trade will be forced to disappear entirely within a short time.

President, with the implementation of the "ban on overnight stocking", we could notice from the situation yesterday and today that many retailers would not dare to purchase live chickens, and even if they did so, it would be in a small quantity. Under this circumstance, the trade will surely be wiped out by the government policies.

However, President, cooking live chicken is a deep-rooted tradition of the Chinese while the live chicken trade has long been a feature of life in Hong Kong. Moreover, the various work types related to the live chicken trade, including chicken farming, transport, wholesale and retail and so on, have been providing a means of living to many workers of the working class with low education attainment. Therefore, I cannot understand, nor do I consider it acceptable, why the Government has to grasp the nettle and ruin the entire live chicken trade in the absence of extensive discussion and consensus in society.

President, the avian influenza issue first came to our concern in 1997, and 11 years have passed so far, but society in Hong Kong has not yet arrived at a clear consensus that the live chicken retail trade should be banned. In recent years, the Government has not conducted any public consultation on the issue, nor has it led the public to discuss the relevant issues and strive for a consensus. A few H5N1 avian influenza cases were discovered last month, but to date, the source is still unidentified. There is no reason that the Government should resort to the easiest method of crushing the entire live chicken trade. Such an

arrangement is like "trimming the toes to fit the shoes" and putting the cart before the horse. It is outrageous! Secretary Dr York CHOW, being a Director of Bureau overseeing food and health policies under the accountability system, has never had any serious discussion with the trade, nor has he consulted the public on a major issue affecting the lifestyle of the people of Hong Kong. On the contrary, he adopts this straitjacket approach to close down the entire live chicken trade for good. May I ask whether the Secretary has fulfilled his duties as an official under the accountability system? Does the Secretary know the genuine problems faced by the trade? Does he know the importance of traditions and habits to the people of Hong Kong? If the Secretary is so busy that he cannot meet with the trade, he should not have adopted such a swift method of culling chickens to suffocate the trade. If the Secretary really has to do so, he had better resign. If he has no intention of discussing the issue with trade and having exchanges with the public to strive for a consensus, I think he is not a responsible Director of Bureau at all.

President, public health is definitely of great importance, but I believe, today in Hong Kong, we still have time to hold some thorough discussion on the balance between the job security of workers in the live poultry trade and the habits of the public in consuming live chicken food and their health. But the Secretary just insists on dealing with the problem in his own way by the method of culling chickens and driving the trade out of existence, which has thus provoked widespread discontent in society.

President, I so submit.

MRS SELINA CHOW (in Cantonese): President, Chinese newspaper the *Ta Kung Pao* in a rare move uses "Public hungry for chickens, all chickens sold out in one morning" as its headline.

I have to declare, or make it clear, that I love eating chicken. But I am not alone. I learn from the report in newspaper today that Tommy CHEUNG also loves chickens and that his wife has brought six chickens in one time. Many people in Hong Kong love chickens, particularly live chicken dishes. We say that live chickens taste different from chilled chickens. This is a fact. Anyone who loves chickens will tell you so.

That is why the 25 000 live chickens put on sale on the market today were sold out in the morning. It was then announced that the number of chickens imported would be increased to 35 000. It is evident that the people of Hong Kong love eating chicken in general. If the Government really adopts a people-based approach, it should first accept and understand this fact, and then examine whether this wish of the public and consumers should be riding roughshod over on the premise of so-called protection of their health.

All members of society are health-conscious, but I wish the Government would not again say that "eat no more live chickens for the sake of your health". According to the Government, health concern in general comes first, and any other issues are of secondary importance. However, this time around, society should tell the Government aloud to strike a balance. As Mr LEUNG Yiu-chung said earlier, a balance must be struck. We want health but we also want to eat live chickens.

In fact, we know that in many other international cities, live chickens are still on sale in a small scale. Owing to health concern, an overwhelming majority of people may have to accept chilled chickens. However, there should at least be a choice, and the trade should not be wiped out after all. Concerning the "ban on overnight stocking", I know it is impracticable for the trade. I believe many members of the trade may be of the view that instead of running the risk, they may really have to accept the compensation offered by the Government and leave the trade. This is a possible situation.

The "ban on overnight stocking" as adopted by the Government is perhaps the only way to protect the health of the public for the time being. I am not sure if it actually thinks so. However, this is how the Government puts it. Since the policy has already been put in place, if we still want to have live chickens, I believe we will reluctantly accept it no matter how unwilling we are and no matter how expensive the chickens are.

I present this view from the perspective of the general public, unlike Tommy CHEUNG who presents the views from the interest of the trade. As members of society, we should understand what we want. The Government may eventually indicate that no live chickens will be allowed, and it considers it not a big deal because live chickens are also not available in many places like Singapore and Malaysia. However, in some advanced cities, be it San Francisco, New York or London, live chickens are available for sale. If so,

why this is not allowed in Hong Kong? Though the quantity available may be relatively small, it is still available, but why should it be stamped out? I am not convinced.

So far, we consider this policy adopted by the Government fairly acceptable, but we do not know how things will develop eventually. But since the Secretary is now sitting in this Chamber, I earnestly hope that he will understand the aspiration of the public. I do not wish to see us repeating the mistakes made in the food labelling case last time. Regardless of the number of persons concerned, when certain products will do no harm to public health, please give them a chance of survival.

MR ALAN LEONG (in Cantonese): President, many people in Hong Kong take a great liking for live chicken dishes, and this was reflected in the sale of live chickens yesterday and today. But at the same time, we also heard the wishes expressed by the public on removing the worries prompted by H5N1 avian influenza. The Civic Party is particularly concerned about whether the worries of both sides can be taken care of.

I have met with the trade during the last few days. According to them, it will be a way out if less satisfactory chicken farms can be weeded out while maintaining only those of the best quality in Hong Kong. If this is complemented by some matching measures that allow them to sell live chickens in Hong Kong and set up their own retail network to provide one-stop service, which starts from breeding in farms to serving on tables, it may possibly offer a way out. President, I believe if the authorities can monitor the hygiene of chicken farms in the territory of Hong Kong, the entire transport flow and the separation of human and chickens, and so on, the control and monitoring work will be effective and the public confidence can be maintained.

Therefore, in considering the approval of the \$1 billion funding application submitted by the Government, which will be used for handling chicken farmers and offering compensation to the entire live chicken trade, and Mr Albert CHAN's motion to be discussed by this Council next week, the Civic Party will pinpoint the availability of a clear government policy that caters for both the public's desire for live chickens and their worries about the spread of H5N1 avian influenza in Hong Kong. As Secretary Dr York CHOW is here today, I hope he has heard our debate. I hope that before we deal with the

funding application and the motion of Mr Albert CHAN, he will elucidate the Government's policy in this respect.

President, I would like to state one more point. When I met with the trade during the past few days, they raised one query. That is, despite the detection of H5N1 virus in some chicken faecal samples, no trace of H5N1 virus was found in registered chicken farms on the Mainland and in Hong Kong. Certainly, some Members have concluded that smuggled chickens are involved. But no matter whether or not smuggled chickens are involved, I believe the Government, being reasonable, should address the query raised by the trade about this. If the trade queries whether the procedures for testing chicken faeces have been followed properly, it means that the control and monitoring work is still effective. If so, the eradication of the live chicken trade will be uncalled for. I think the authorities have to deal with these issues.

President, in today's debate which allows only a five-minute speech, I present these two points on behalf of the Civic Party.

MR WONG YUNG-KAN (in Cantonese): President, as a common saying goes, "A whole pot of porridge can be spoiled by a tiny rodent dropping". At present, it is obvious that a few droppings have sent the Government trembling all over in fear, while the trade is being forced out of business for unknown reasons.

Some Honourable colleagues said earlier that avian influenza was not found in local chicken farms, nor at the wholesale and retail levels, but only in the wet markets. However, I find it strange that the source has not been identified until now. The Government said that if the source could not be identified, the situation would be more serious, for the cause was unknown. At present, the strongest reason put forth by the Government is the mounting risk in this respect. May I ask the Government one question? From the outbreak of the avian influenza in 1997 until the incident in 2003, some people died from the infection. But this was after all a new strain of virus and no one knew how this should be treated at the time. Since preventive measures have now been put in place and the health care system is ready, why is the Government still so scared about it?

Moreover, we notice that the figures on avian influenza cases provided by the World Health Organization have been decreasing, and the virus may not necessary cause instant death to every person infected. I remember hearing a university professor said in this Chamber that, "In case of an outbreak of avian influenza in Hong Kong, some 300 000 people will die an instant death or be infected." Such alarmist talk made us terribly angry at that time, for he must justify his views with relevant evidence and figures. As in the present case where the Government has detected avian influenza virus in the faeces tested, it adopts a blitzkrieg approach at the first instance to exterminate the trade.

The trade has been extremely anxious, and people in the trade know not what to do. Initially, views expressed by members of society were all in support of the Government. But later, when the situation became clearer, different responses were expressed. We attach great importance to food safety, and I, particularly those of us from the trade, will accord the highest priority to public health. In the past few years, I did not see the trade came under any risk in this respect, I thus see no reason the Government has to do so.

Moreover, I hope the Government will consider one issue, and this has been mentioned by some Honourable colleagues earlier, that is to recall the licenses from the trade. The trade thinks that if the Government wants them to go out of business for good, generous compensation must be offered. The Government must pay the price for it. However, the Government now acts the opposite, complaining the trade of greed. Since the trade has to cease operation for good, they will naturally request for reasonable compensation or arrangements in the course of negotiation. Having said that, I know the Government has started making effort in mediation.

I would like to talk about another problem. At present, there are only 50 chicken farms left in the chicken breeding trade, and 10 of them have already indicated to me that they will not close their business. They said that even if the Government gives them money, they will insist on running their business, for they are still young, just in their forties, and they do not know what else they can do. Since they love this trade, they plan to link up with 70-odd retail outlets to provide a one-stop supply service. I do not know whether the Government will help them achieve this aim of providing live chickens from breeding to retailing, so that live chickens will continue be available for sale in Hong Kong. If this is successful, the culture in consuming chickens can be preserved. In the past few

days, the public has been competing for live chickens in the wet markets. In view of this enthusiastic response, what should be done?

Besides, I would like to raise one more point, that is, the Government should urge the steering committee responsible for food safety to meet with the trade to discuss the issue. In the past decade, that committee has never talked to the trade for even once, but now, it decides to eradicate the entire trade. Is this proper? No. If a government wants to eradicate a trade, it must give clear explanation, and the official-in-charge or the decision-maker concerned should give an account of and explain the case to the trade. However, none of them attends the meeting today. Are we lepers while they are saints? How can they act this way? They are educated and civilized persons, why do they consider our trade so disgusting? On the contrary, I consider them extremely disgusting — I am not referring to the Secretary because he is only the decision-maker. Those officials under him are disgusting. There is no problem with the decision-maker, only that the officials concerned give the public an impression that the Government should not do so. Certainly, I hope that the trade can be preserved.

MR FRED LI (in Cantonese): President, I would like to talk about a few events. Firstly, a recent opinion survey conducted by the Democratic Party reflects that: first, if the sale of live chickens is resumed, 70% of the people are willing to buy live chickens, and the main reason is that they are used to live chicken cuisine and they prefer fresh chickens to chilled chickens. These are the findings of our opinion survey.

Moreover, I have been to the wet markets operated by the Food and Environmental Hygiene Department (FEHD) in Kowloon East, such as the Tai Shing Street Market. I went there in person to conduct some simple surveys. The target respondents of the survey are mainly housewives shopping at the markets. I asked them whether they supported the policy adopted by the Government, which would prevent them from consuming fresh chickens. Incidentally, 70% among them opposed the policy for they still wanted to have fresh chickens. The findings of the survey conducted at the wet markets tally with those of a territory-wide survey randomly sampled by the computer. They show that the people want to consume fresh chickens. I have already passed this message and submitted the findings of the survey to the Secretary. This is the first point.

Secondly, during these last few days, 25 000 to 30 000 live chickens were sold out by 11 am to 12 noon, instead of 3 pm to 4 pm, for the quantity sold was small. Though some more live chickens were supplied today, they were sold out very soon. In that case, in the context of the policy of "no overnight stocking of live poultry at retail outlets" (ban on overnight stocking), the closing time needs not be set at 8 pm as suggested by the Government. However, I believe the situation should still be put under observation for a period of time.

According to an opinion survey conducted by me, 60% of the respondents agreed with the "ban on overnight stocking". In terms of hygiene, the "ban on overnight stocking" will surely reduce the risk involved. There are at present 469 retail chicken stalls and half of them are located in the wet markets run by the FEHD. However, the hygiene conditions of chicken stalls in FEHD wet markets are definitely undesirable, and the stalls are more densely located than those in the wet markets of Link REIT or the Housing Department (HD). Given these environmental and structural constraints, we can only resort to human and administrative means, like the "ban on overnight stocking", to overcome the inadequacy in the environment. Hence, I consider the "ban on overnight stocking", which has the support of 60% of the public, acceptable. Given the condition that a large number of live chickens, that is, some 30 000, have to be sold in densely located wet markets, if we want to have fresh chickens, this "ban on overnight stocking" would be a compromise and the risk involved is lower.

Thirdly, I would like to talk about the workers concerned. A few days ago, two female workers at about 40 to 50 years of age came to my office to lodge a complaint. They looked very angry. First, they considered the \$35,000 compensation the Government proposed to offer to workers insufficient. Yet this was not the main problem. The main problem was that they could not get the compensation. According to the existing operation of chicken stalls in general, each chicken stall will employ one to two female workers at a daily wage of \$400 to \$450. They are paid at the end of the day in cash. They are not entitled to Mandatory Provident Fund, nor do they have any wage receipts or records. They have nothing to prove. When the Government offers the \$35,000 compensation to workers, the owners will just find one of his relatives to act as the worker and collect the \$35,000. So, these two female workers will receive nothing. One of them reasoned with her boss last time when compensation was offered, but she was fired immediately.

They asked if the Government really understood the situation of workers employed by retail chicken stalls. Most of them are female workers who have worked for more than 10 years. The compensation of \$35,000 is not a large sum. But the problem is that they cannot get the compensation. Therefore, I hope the Secretary will pay special attention to this point. Chicken transporters will receive \$170,000 as compensation, chicken farmers will have more than \$10 million and owners of retail stalls will receive \$700,000 to \$800,000 and even more than a million. But the compensation for the workers is only \$35,000, which will not reach the hands of these workers. I am most concerned about the situation of these workers. Moreover, the Secretary must find ways to prevent individual unscrupulous chicken stall owners from taking the \$35,000 compensation by cheating. There were precedents of such cases. I feel very upset about this situation.

Therefore, when the funding application will be examined next week or at any other time, the Government must respond to this issue, stating how it can protect the grassroots who have been receiving daily wage in cash during the many years they have worked in the trade. I so submit.

MR VINCENT FANG (in Cantonese): Madam President, before I join the Legislative Council, I have participated in many hospital services, such as during the avian influenza in 1997 and the SARS in 2003. Hence, I have, to a certain extent, experienced the grave situation in the hospitals. At that time, doctors kept on stressing the catastrophic impact of avian influenza. My view was similar to that of Secretary Dr York CHOW, who is a doctor, for I also considered that given the high risk posed by the sale of live chicken, we had better consume chilled chickens instead.

However, during these four years past, I notice that the live poultry trade has been extremely cautious and sincere in preventing avian influenza. Everyday when the wholesale market is closed, the venue is cleaned thoroughly, which is cleaner than any wet market run by the Food and Environmental Hygiene Department (FEHD). During the two rest days imposed on chicken retail stalls every month, they will clean and disinfect their stalls. Trucks used for the transport of chickens are more so in that case, for if they are not disinfected, they cannot even enter the chicken farms. They all understand that the recurrence of avian influenza will cause the entire trade to disappear and they will lose their means of living. Fortunately, since 2003, not a single case of

avian influenza has been discovered in any registered farms in Hong Kong and the Mainland, or in the wholesale markets and retail stalls.

The live poultry trade used to sell some 200 000 chickens per day at the best of times, but right before the suspension of the sale of live chickens on this occasion, it was only selling 40 000 chickens per day. The trade has experienced much hardship and the Government has been trying every means to wipe out the trade. At times of the Chinese New Year and other Chinese festivals, I often join Mr Tommy CHEUNG in begging the Government to allow the importation of more mainland chickens to Hong Kong for the public to celebrate the festivals. In fact, if the Government is really concerned about the needs of the public, it should have taken the initiative to allow the trade to import more chickens, so that the price of chicken will be lowered and the public will enjoy a joyful festival. At the very least, I notice that the national leaders are concerned about the food supply during major festivals, but we have to keep begging the Government to allow the importation of more chickens, even though they are only of a small quantity.

Due to excessive demand, there is a significant difference between the price of live chickens imported legally and that of live chickens sold in the black market, and some people are tempted to smuggle live chickens to reap profit. As a result, before the Dragon Boat Festival, avian influenza virus was detected in the faecal samples collected from certain chicken stalls in government wet markets. This has triggered off the call for permanent closure of live chicken retail stalls this time. I understand that the trade, as mentioned by the Secretary, is ruined by smuggled chickens. However, the uncontrollable sale of smuggled chickens should be attributable to the failure of the Custom and Excise Department in combating these smuggling activities. That means that in the end, the trade is ruined by the Government indirectly.

Most of the operators and workers in the trade have been in the business for several decades. Their education level is in general very low, so it will be very difficult to ask them to change to other jobs. It is easier said than done to ask them to find another job. Upon the closure of their business, they face a gloomy future. They thus hope that the Government can provide *ex gratia* payment of a handsome amount, so that they may run some small businesses after paying the severance payment to their employees. This thought is only normal. However, the Government lures sectors at the lower stream of the trade to surrender their licenses, forcing sectors at the upper stream to close

down. This is indeed unreasonable because the avian influenza incident this time around was found in chicken stalls in government markets. Nonetheless, registered chicken farms on the Mainland and in Hong Kong, as well as the related transport and wholesalers, which are problem-free, all have to be made scapegoats. This is really unfair.

Though the Secretary stressed repeatedly that there was no room for upward adjustment of the compensation, I still hope that the Government will provide a chance of survival for those operators whom the Government does not plan to let their operation continue. It may consider giving them the priority in obtaining the licenses for selling chilled chickens, so that they may have a chance of survival upon their graceful exit from the live chicken business.

I so submit. Thank you, Madam President.

MR WONG KWOK-HING (in Cantonese): I would first speak on the situation of the workers in the poultry trade.

President, the Government has forced them out of work for 21 days. They receive no pay and they are living in great difficulties. Though the ban on overnight stocking of live poultry at retail outlets just comes into effect today, most of them have only worked half day and they have no more work to do. I visit the wet markets on purpose today. At the peak hours of the wet markets, all chicken stalls have closed. It is a pity.

With regard to the Government's intention to wipe out the trade, I think the Government must learn a lesson from past experience. What lesson am I referring to? That is workers failing to receive any compensation in effect, for certain unscrupulous employers have taken the share to which those workers are entitled. Hence, I urge the Government to pay the \$35,000 compensation to workers via individual accounts, ensuring that those workers can get the compensation. Besides, employers must be prevented from using the \$35,000 to set off or cancel out the termination benefit and severance payment they have to pay to employees on the termination of employment. Since the severance payment of certain workers will by far exceed \$35,000, if employers are allowed to use the compensation as a set-off, the Government is indeed condoning the exploitation of workers by unscrupulous employers.

Another issue is about the verification of eligibility for compensation. Many workers in the poultry trade are casual workers whose wages are calculated according to the number of chickens treated. Under such circumstances, it will be difficult to present objective evidence. Therefore, with respect to verifying the eligibility, in addition to the confirmation by employers and statutory declaration made by employees, I hope that the Government will consider accepting our views of allowing trade unions to prove the eligibility of the workers, so that they can get the compensation. I have mentioned this point repeatedly in past. I have also pointed out that workers in the poultry trade have immunization cards that can hardly be faked. Over the past years, the authorities have also kept the record of immunization. I therefore hope that the Government will accept our views on the verification of eligibility.

As for those aged workers of low education attainment who have been working in the trade all along, they have to leave the trade for good upon receiving the \$35,000 compensation offered by the Government, and they will not find any job opportunities. That sum of \$35,000 can in no way compensate their loss in respect of their future prospects. Therefore, in addition to the \$35,000 compensation, I hope that the Government will double its effort in providing retraining to workers in the poultry trade, assisting them to find jobs in other trades to earn a living.

Moreover, now that there are many vacant stalls in the markets, will the Government help them run businesses of other trades in the markets? This is also a way out. Besides, the Government is now willing to review the issuance of hawker licences again, will the Government consider allowing them to select the business they like to run at certain fixed stalls on the streets? The Government should actually help them find more ways out and think of other solutions. Though it has paid \$35,000, it should not leave them to fend for themselves, nor should it turn a blind eye on their difficulties, just like kicking them out of the doorsteps.

I hope the Secretary can be more sympathetic in dealing with workers who have been working in the trade for several decades and take into account the difficulties they face in their daily lives. The Government should take proactive actions to help them, for it is after all better than forcing them to live on the Comprehensive Social Security Assistance. Therefore, I hope the Secretary

will give a clear and positive response later on the compensation for workers in the poultry trade.

Thank you, President.

DR KWOK KA-KI (in Cantonese): I believe no one in Hong Kong would forget the impact brought about by the threat of avian influenza and the actual impact it has made on our health, society and the economy. In view of this, the Government has put in place a series of plans and measures, including considering the implementation of centralized slaughtering, in order to make the trade healthier. However, since the H5N1 virus was detected in four chicken stalls recently, the Government immediately implemented the ban on overnight stocking of live chickens, and operators were even ordered to cease operation. However, this approach has aroused considerable controversy.

During this period, I notice that apart from the views expressed by the trade, many members of the public have expressed different views on the operation of the trade and their right to purchase live chickens. As a doctor, I agree and understand that the Government has to implement the ban on overnight stocking, but the greatest difference and controversy at present is that the Government has seemingly done little to help maintain the trade when it introduces the above plan. This has also led to hostility among the many chicken farmers, wholesalers and retailers concerned. Actually, this hostility is not found only in the trade. According to reports of the media and phone-in programmes broadcast every morning on the radio, I notice that many people have expressed extreme hostility against the recent practice of the Government.

I believe the decision to wipe out or eradicate a certain trades is a matter of enormous importance. In making such a decision, the Government should consider two points: first, it must be fair and impartial; second, it must give people the impression that the Government is sympathetic and has rendered assistance to the people affected. But regrettably, in this incident, all the practices adopted by the Government fail to give the trade or the public this impression. The Government chooses to offer considerably high compensation to members at the retail level. I believe all the people in Hong Kong or those with good sense will see that the Government is trying to stifle wholesalers and chicken farmers by severing the retail level of the live chicken trade, expecting that this will bring a natural death to the trade or even eradicate it. The

situation is obvious to all. This tactic of the Government may be too clever. Sometimes, this kind of extremely clever tactics of the Government may backfire, for it makes the public feel that the Government has gone overboard and is being unsympathetic.

In fact, not long ago, around 2003 and 2004, when the economy in Hong Kong was in the doldrums, other Members and I visited some farming and fish culture operations in the New Territories. These operations have absorbed many economic activities, or say, provided good employment opportunities. Recently, I have visited some local farms, including the farm that breeds Kamei chickens. They do their best to try to establish a local brand, but it seems that the Government has not offered much assistance to them. I may even say that it is trying to put them to death. Some feelings come over me. It is reported that there are commentaries in Hong Kong posing the following question: Is Hong Kong trying to eradicate all trades with productivity and of a positive nature, leaving Hong Kong a city that thrives only on speculation of stocks and real estate? Indeed, the series of actions taken by the Government can hardly stop people from thinking that the Government is trying to eradicate this trade deliberately.

Let us look at the matter from another perspective. When the central slaughtering of poultry was first discussed, I remembered clearly that the Government's original intention was only to achieve a separation of humans from live poultry via an effective means and it made no mentioning of its intention to eradicate the trade. However, in view of the present development, it differs significantly from the original intention. Though many people agree that the Government should make more efforts to safeguard public health, including imposing the ban on overnight stocking of live chickens, we cannot help but ask the Government to adopt practicable and effective methods to enable people who want to continue with their operation to stay in the trade. The Government's requirement that compensation will only be offered if the proposal is accepted by 80% to 90% of the members of the trade, for instance, is a rather controversial approach, for the effect of such a requirement is the trade will be wiped out. I hope the Government will not do so. Otherwise, I believe the public will respond with strong opposition. If such is the case, it will do no good to the Government in governance.

I look forward to hearing a response from the Government. I so submit. Thank you, Madam President.

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

MR TAM YIU-CHUNG (in Cantonese): President, it is only because the H5N1 virus was detected in a few chicken faecal samples collected from certain wet markets by the Government, the entire chicken breeding trade, as well as retailers, wholesalers and transporters, and so, were greatly affected. Yesterday, I met with members of the chicken breeding trade. They expressed some views to me and I would like to take this opportunity to reflect them to the Government.

The major views expressed by the chicken breeders include: First, in the press release issued by the Government, it is mentioned that compensation offered to chicken farms amount to 18 times, they consider the figure dubiously exaggerated, which is not the actual situation. They also consider the existing method of calculating the area of chicken farms unreasonable. They hope that the Government will consider using the gross area of chicken farms as the base of calculation. The reason given is that in the case of wholesalers and retailers, the gross floor area of their entire stalls is used as the base of calculation. If so, why is gross area not used for the calculation of the area for chicken farms? They have strong views about this.

Moreover, some members in the day-old chick trade said that members in their trade could not get any compensation at all. They consider it unreasonable. Since they have been in the day-old chick trade for two to three decades, their business will be directly affected once the Government takes measures to recall the licences. They said that around 450 000 day-old chicks were imported via them every month, and they would suffer losses in transportation and sales, amounting to \$2 million. Hence, they hope that the Government will undertake the responsibility and compensate them. Otherwise, they will be left in dire straits, for the measures will deal a severe blow to the entire trade.

Drivers engaging in the transportation of day-old chicks have also sent us a letter. They hope that the Government will take into account the situation of

drivers engaging in the transportation of day-old chicks and compensate them. Concerning the measures taken by the Government this time around, some members of the public do not quite understand the situation and query whether the Government has to be so anxious. They query if the Government can do it step by step, so that chicken breeders, retailers and wholesalers can adapt to the change gradually. Besides, even if there is an enormous sum of money allocated by the Government for the compensation of the trade, how can those engaging in the trade earn a living in future? Even though compensation is granted, it is only a short-term solution which fails to address the problem they will face in earning a living. Will this indirectly cause the Government to incur expenses in other aspects? It is because a group of people may become unemployed because of this. This point should be considered by the Government.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wish to speak, I now call upon the Secretary for Food and Health to reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Madam President, for the sake of the prevention of avian influenza, it is obvious to all that the Government will implement the long-term policy of separating live poultry from humans to minimize the risk of avian influenza infection.

Avian influenza threatens human life and health. In 1997, six people died from avian influenza, and since 2003, 243 people around the world died of avian influenza infection. These cases were mostly found in regions close to Hong Kong, including the Mainland, Indonesia, Vietnam, and so on.

The avian influenza virus, is like the influenza virus in that it may keep on changing according to changes in the environment and hosts. As such, health authorities around the world exercise constant and extra vigilance at all times, taking stringent measures to prevent the possible outbreak of the epidemic.

Over the years, we have adopted a series of preventive measures to minimize the risk posed by the avian influenza virus. However, these measures are not foolproof, as seen from the repeated avian influenza outbreaks that took place in Hong Kong during the past decade.

Despite the recent detection of the H5N1 avian influenza virus in environmental swabs taken from four local retail markets, the reinforced preventive and control measures we have put in place are effective. However, since the tests are 100% accurate, the detection of virus shows that we must step up our efforts in prevention, particularly at the retail level.

Whilst we have been actively investigating into the cases, we fail to identify the source of the virus in the end. It is therefore imperative for us to implement decisive measures at all levels of the supply chain of live chickens to reduce the risks of infection by the public. Hence, the Government proposed to implement measures to prohibit overnight stocking of live poultry. However, in the middle of June, the trade indicated that the new measures would increase their business risk substantially, and thus requested the Government to offer compensation for the termination of their operation. On 24 June, the Executive Council approved the implementation of the ban on overnight stocking of live poultry, and at the same time, proposed a compensation package for termination of operation (buyout package) in response to demands from the trade.

The implementation of measures at retail outlets to prohibit overnight stocking of live poultry will fulfill three major functions as listed below:

- (a) break the virus cycle of the avian influenza virus and reduce the virus load in the environment of retail outlets, which will effectively reduce the risk of cross infection among chickens and prevent the spread of the virus;
- (b) undermine the incentive for smuggling live chickens, as overnight stocking of live chickens is prohibited, the smuggling of live chickens will incur much greater business risk; and
- (c) facilitate departments responsible for law enforcement in combating live chickens smuggling activities, for the departments concerned can effectively crosscheck the daily order invoices of retailers against the number of live chickens in their stalls.

Under the new arrangement, retail stalls may make proper arrangement with wholesalers and transporters. Live chickens can be stocked at wholesale markets. But out of the concern of biosecurity, live chickens transported out of the wholesale market cannot be sent back. In the wholesale market, we will closely monitor the number of live poultry stocked to ensure that there is no over-stocking which will increase the risk of an avian influenza outbreak. We will at the same time reinforce the preventive measures at all other levels.

Notice has been gazetted on 27 June, last Friday, to amend the Food Business Regulation to implement the new measures to prohibit the overnight stocking of live poultry. On the same day, we met with the Panel on Food and Environmental Hygiene of the Legislative Council to explain the details of the amendments. The amendments were submitted to the Legislative Council yesterday, which took immediate effect.

The new measures to prohibit overnight stocking of live poultry have been implemented for two days, and the operation has been smooth in general.

The new measures will pose considerable impact on the trade, and some members of the trade have indicated that they would rather choose to close their operations. We have grave concern about the situation of the trade and every sympathy for them. We have thus made the swift decision to propose the buyout package, enabling members of the trade choosing to cease operation voluntarily to receive *ex gratia* payment. Having considered the need for the trade to make the decision within a short time, a relatively high level of *ex gratia* payment is offered. According to the buyout package proposed to the trade on 20 June, the amount of *ex gratia* payment involved is around \$900 million. In comparison with the compensation we planned to offer to the trade a few years ago for the building of the proposed central poultry slaughtering house and processing plant, the *ex gratia* payment offered this time around has been increased substantially.

Last week, we met with the trade a number of times to discuss the issue and listen to their views towards the package proposed by us. We have also listened to the views expressed by Members of the Legislative Council of various political parties and groups, as well as those of non-affiliated Members. I have to express my gratitude to each of them, particularly Mr Vincent FANG from the wholesale and retail sector, Mr Tommy CHEUNG from the catering sector and Mr WONG Yung-kan from the agriculture and fisheries sector. I would also

like to thank Miss CHAN Yuen-han and Mr WONG Kwok-hing from the labour sector for conveying the concerns of workers to us. Mr Fred LI from the Democratic Party has conducted an opinion survey which helps the Government feel the pulse of the public, and I am thankful about this. The Civic Party, the Alliance and some independent Members have had discussion with us and provided us with valuable views for reference. The list can hardly be exhaustive, but I would like to express our heartfelt thanks to them on behalf of the Food and Health Bureau.

Having considered the views of all sectors, appropriate adjustments have been made to the initial proposed arrangement, and the amount incurred in the latest package has now exceeded \$1 billion. The buyout package proposed by the Government is very reasonable and there is no room for upward adjustment. I hope Members and the trade will understand that the Government must spend public money prudently.

Since the trade indicates that they want to have sufficient time to consider the package proposed by the Government, we will give them one month, counting from the date the decision was made by the Executive Council, that is on or before 24 July, to decide whether or not to accept the buyout arrangement. As for farmers, wholesalers and transporters, since they have to wait until the developments at the retail levels become clear to assess their business environment, they will have three months, that is, on or before 24 September, to consider the proposal. The longer period will also give farmers sufficient time to sell their remaining poultry stock.

At the special meeting of the Panel held last Friday, we explained in detail to Members the buyout package. Some Members wished that the Government could introduce flexibility, so that even less than 90% of the retailers chose to cease operation, the arrangement to grant *ex gratia* payment for cease of operation would still be implemented. Having considered the views expressed by Members, we decide that if nearly 85% of the retailers are willing to cease operation, the Government will still introduce the arrangement for offering *ex gratia* payment for cease of operation.

According to our understanding, though a majority of retailers has now chosen to cease operation for good, some retailers will try continuing with their operation. We thus believe that there is still room for survival for local farms, they may continue with the sale of live poultry. Upon the implementation of the

new measures to prohibit overnight stocking of live poultry, the number of retail stalls will reduce, but I believe the public may still purchase live chickens at retail outlets. We understand that certain local farms wish to operate on a one-stop mode. This is a commercial decision of them, they can co-operate with operators at retail and wholesale levels in the form of joint venture to provide one-stop supply. We understand that some farms are actively making arrangements in this direction.

We have made it clear to the trade that those chosen to stay in the trade will bear the risks of any further avian influenza outbreaks in Hong Kong. In the event of a future avian influenza outbreak, the Government will not provide any *ex gratia* payment or financial assistance to the trade, other than the statutory compensation (that is a maximum of \$30 per bird slaughtered).

Members of the trade have to take into account the risk of future avian influenza outbreak and decide whether they should leave or stay. Both the Government and the trade do not have many choices, maintaining status quo or some minor and piecemeal measures cannot effectively reduce the risk of avian influenza outbreak, which is the aspiration of the public.

Under the buyout package proposed by the Government this time, apart from local farmers, wholesalers, retailers and transporters, workers being affected are catered for under an independent item, and they will be offered an one-off grant amounting to \$35,000 direct. Workers applying for the grant and their employers have to make statutory declaration to prove their employment relationship; otherwise, they may provide the relevant documents, such as Mandatory Provident Fund statement, employment contracts and so on. If, for any reason, the employers fail to make the statutory declaration, the registered trade unions can assist in verifying the identity of the workers concerned. Besides, employers must fulfil their responsibilities stipulated in labour laws and the relevant employment contracts.

We will submit the funding application on the buyout package to the Finance Committee of the Legislative Council tomorrow, 4 July, with a view to grant the *ex gratia* payment as soon as possible to members of the trade indicating a wish to cease operation.

In addition to the introduction of the buyout package, we will also endeavour to assist the trade to restructure. For live chicken retailers intending

to transfer to the sale of chilled chickens or frozen chickens, the Food and Environmental Hygiene Department will provide suitable assistance in respect of the licence and lease of wet market stalls. For existing wholesalers engaging in the wholesale of live chickens, if they wish to lease stalls at other wholesale food markets managed by the Government to run wholesale business of other food items, the Agriculture, Fisheries and Conservation Department (AFCD) will also offer suitable assistance. If poultry farmers wish to open poultry farms on the Mainland or shift to organic farming, the AFCD will also assist them accordingly. For the workers, a series of free courses are now offered by the Employees Retraining Board to help workers seek other employment.

The main objective of the buyout package proposed by the Government is to take care of the four sectors in the poultry trade, including chicken farming, wholesale, retail and transport, being affected direct. This is consistent with the voluntary licence surrender plan proposed in 2004-2005. We understand that traders of day-old chicks and poultry feed also wish that the Government will compensate them, and we will examine the issue thoroughly and make a decision at the next stage. According to our initial understanding, these operators may maintain their business by selling other products. Moreover, some chicken farmers may be willing to continue with their operation. Hence, we must act cautiously. It is inappropriate for us to conclude whether the buyout package should be offered to traders of day-old chicks and chicken feed at the present stage.

Madam President, to achieve the target of separating humans from live poultry, we initially planned to build the poultry slaughtering and processing plant which will come into operation in 2011-2012. However, taking into account that only a small portion of retailers will stay in the trade in future and the substantial increase of market share of chilled and frozen chicken, from 58% in 2003 to 83% last year, we consider that the building of a large-scale poultry slaughtering and processing house will no longer be cost-effective. In future, we must re-examine the plan of building a poultry slaughtering and processing plant or the scale of the plant. We will also explore whether there are other legislative or administrative means to facilitate us to expeditiously achieve the objective of separation of humans from live poultry.

At last, I would like to reiterate here that safeguarding the health of the public and maintaining public health is the primary task the Government should fulfil. Precautionary efforts against the outbreak of avian influenza should

never be slackened. We must exercise constant vigilance and perfect our preventive measures against a possible outbreak. Our decision to implement the prohibition of overnight stocking of live poultry is made to realize the aspiration of the public. By doing so, we have also fulfilled the Government's obligation to safeguard public health. At present, the market share of live chickens has dropped from 42% in 2003 to 17% last year. It is evident that the culinary culture and concept of the public are changing. I therefore urge Members to support the implementation of this new measure. Thank you, Madam President.

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 9 July 2008.

Adjourned accordingly at seven minutes past Ten o'clock.

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
1	By deleting the heading and substituting - "1. Short title ".
1	By deleting subclause (2).
2	(a) By deleting the definition of "approved development plan" and substituting - " "approved development plan" (核准發展圖則) means - (a) subject to paragraph (b), the approved development plan referred to in section 18(11), as from time to time amended, revised or otherwise having effect as an approved plan under the Town Planning Ordinance (Cap. 131); or (b) where any approved plan under that Ordinance has replaced the plan, the approved plan currently having effect in respect of the plan area under

that Ordinance;".

- (b) In the definition of "committee member", by deleting "section 8 or 9" and substituting "this Ordinance".
- (c) By deleting the definition of "development plan".
- (d) By deleting the definition of "SWK approved plan" and substituting -
 - ""SWK approved plan" (西南九龍核准圖則) means the approved plan currently having effect in respect of the lay-out of South West Kowloon under the Town Planning Ordinance (Cap. 131);".
- (e) By deleting the definition of "SWK draft plan" and substituting -
 - ""SWK draft plan" (西南九龍草圖) means any draft plan for the lay-out of South West Kowloon -
 - (a) which is exhibited under section 5 of the Town Planning Ordinance (Cap. 131); or
 - (b) any amendment to which is exhibited under section 7 of that Ordinance;".
- (f) In the Chinese text, in the definition of "附屬設施", by deleting everything after "外" and substituting "附屬於為準備或提供藝術文化設施而提供的設施;".

- 4(1) By deleting paragraph (a) and substituting -
- "(a) to prepare a development plan under section 18(1) and to perform the other functions imposed on it under section 18;".
- 4 By deleting subclause (2) and substituting -
- "(2) The Authority shall perform its functions under subsection (1) in ways which aim to achieve the following objectives -
- (a) to facilitate the long-term development of Hong Kong as an international arts and cultural metropolis;
 - (b) to uphold and encourage freedom of artistic expression and creativity;
 - (c) to enhance and promote excellence, innovation, creativity and diversity in arts and culture;
 - (d) to enhance the appreciation of a diverse and pluralistic range of the arts;
 - (e) to develop new and experimental works in arts and culture;
 - (f) to cultivate and nurture local talents in the arts (including local artists), and local arts

- groups and arts-related personnel;
- (g) to encourage wider participation by the local community in arts and culture;
 - (h) to promote and provide arts education to the local community;
 - (i) to facilitate the development of cultural and creative industries;
 - (j) to facilitate and enhance cultural exchange and cooperation between the Mainland of China, Hong Kong and any other place;
 - (k) to facilitate and enhance cooperation between any government or non-government body or organization and providers of the arts, within and outside Hong Kong;
 - (l) to encourage community, commercial and corporate support and sponsorship of arts and culture;
 - (m) to provide or facilitate the provision of free and accessible open space within

the leased area to the general public; and

- (n) to strengthen the position of Hong Kong as a tourist destination."

- 5(2) (a) In paragraph (f), by deleting "purposes under" and substituting "objectives specified in".
- (b) In paragraph (h), by deleting "attainment of the purposes under" and substituting "achievement of the objectives specified in".
- (c) In paragraph (j), by deleting "purposes under" and substituting "objectives specified in".
- (d) In paragraph (m), by adding "and" at the end.
- (e) By deleting paragraph (n).

5 By deleting subclause (3).

- 6(3) By deleting paragraph (c) and substituting -
- "(c) not less than 8 and not more than 15 other members who are not public officers, including -
- (i) at least 5 members who, in the opinion of the Chief Executive -
- (A) are of good standing in the field of arts and culture in the Mainland of China, Hong Kong or any other place; or
- (B) have extensive knowledge of,

or wide experience in or
exposure to, arts and cultural
activities;

(ii) at least one member who is a member
of the Legislative Council; and

(iii) such other members who possess
experience in management,
engineering, planning,
architecture, landscape
architecture, surveying,
accounting, finance, education, law
or community service, or such
professional or other experience as
would, in the opinion of the Chief
Executive, render them suitable for
appointment; and".

6 By deleting subclause (8).

6(9) By deleting "or (8)".

6(10) By deleting ", (8)".

8(2) (a) In paragraph (a), by deleting "and" at the
end.

(b) By adding -

"(aa) to deal with any matter delegated to it
by the Authority under section 11; and".

8

By adding -

"(3A) At least one member of the Audit Committee is to be a member who, in the opinion of the Board, possesses such appropriate professional qualification or expertise in accounting or financial management as would render the member suitable for appointment.".

8

By deleting subclause (4) and substituting -

"(4) Each of the members of the Audit Committee, whether or not the member is a Board member, is to be appointed by the Board.".

8

By adding -

"(4A) A person is not eligible for appointment as a member of the Audit Committee if -

- (a) he is the Chief Executive Officer or any other employee of the Authority; or
- (b) he is the chairman of any other committee established under this Ordinance.".

8(7)

In the English text, by deleting "as" and substituting "that".

New

By adding -

"8A. Investment Committee

(1) There is established by this section a committee to be known as the Investment Committee.

(2) The functions of the Investment Committee are -

- (a) to advise the Authority in relation to its functions under section 20;
- (b) for the purposes of paragraph (a), to monitor any investment made under section 20 and oversee the management of such investment;
- (c) to deal with any matter delegated to it by the Authority under section 11; and
- (d) to consider any other matter relating to investment or finance that is referred or assigned to it by the Board for consideration.

(3) The Investment Committee is to consist of -

- (a) the Director of Accounting Services, or his representative; and
- (b) such number of other members,

not being less than 2, as the Board may determine who, in the opinion of the Board, possess such expertise or experience as would render them suitable for appointment.

(4) Each of the members of the Investment Committee specified in subsection (3)(b), whether or not the member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member to be the chairman of the Investment Committee.

(6) The Board may -

- (a) withdraw any matter referred or assigned under subsection (2)(d); or
- (b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Investment Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Investment Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers

appropriate.".

New

By adding -

"8B. Remuneration Committee

(1) There is established by this section a committee to be known as the Remuneration Committee.

(2) The functions of the Remuneration Committee are -

- (a) to advise the Authority in relation to its functions under section 10(2) and (3);
- (b) to advise the Authority on any other matter relating to the remuneration, allowances or benefits made available to its employees, former employees or their dependants that is referred or assigned to it by the Board for consideration; and
- (c) to deal with any matter delegated to it by the Authority under section 11.

(3) The Remuneration Committee is to consist of such number of members, not being less than 3, as the Board may determine.

(4) Each of the members of the Remuneration Committee, whether or not the

member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member (other than the Chief Executive Officer) to be the chairman of the Remuneration Committee.

(6) The Board may -

- (a) withdraw any matter referred or assigned under subsection (2) (b); or
- (b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Remuneration Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Remuneration Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers appropriate."

9(7) In the English text, by deleting "as" and substituting "that".

- 10 In the Chinese text, in the heading, by deleting "委任" and substituting "聘任".
- 10(1) In the Chinese text, by deleting "委任" and substituting "聘任".
- 10 By deleting subclause (2) and substituting -
 "(2) The Authority may determine the terms and conditions of the employment of its employees, having regard to the advice of the Remuneration Committee established under section 8B."
- 10(3) By adding ", having regard to the advice of the Remuneration Committee established under section 8B" after "dependants".
- 11(1) (b) By deleting "section 8 or 9" and substituting "this Ordinance".
- 11 By adding -
 "(1A) In delegating under subsection (1) (b) any function to a committee established under section 8, 8A or 8B, the Authority shall have regard to the committee's functions as specified under this Ordinance."

11(6) By deleting "section 8 or 9" and substituting "this Ordinance".

New By adding in Part 2 -

"17A. Establishment of consultation panel

(1) Without limiting the generality of section 17, the Authority shall establish a consultation panel to gather public views on matters relevant to the functions of the Authority.

(2) The consultation panel is to consist of a chairman and such number of other members as the Authority may determine.

(3) Each of the members of the consultation panel, including its chairman, is to be appointed by the Authority.

(4) In appointing any member of the consultation panel, the Authority shall have regard to the purpose for which the panel is established under subsection (1).

(5) The Authority shall from time to time issue guidelines in relation to -

- (a) the functions of the consultation panel;
- (b) subject to subsection (8), the administration, proceedings and business of the panel; and
- (c) any other matter relating to the panel that the Authority

considers appropriate.

(6) A guideline issued under subsection (5) is to be made public in the manner that the Authority considers fit.

(7) In performing its functions, the consultation panel is to have regard to any guidelines issued and published under this section.

(8) The consultation panel is to hold at least one meeting each year and any such meeting is to be open to the public."

18(2) In the Chinese text, by deleting paragraph (b) and substituting -

"(b) 可規定為所有或任何目的而言須根據該條例第 16 條取得批給許可。".

18 By adding -

"(13) Where the Chief Executive in Council refuses to approve a development plan which is deemed to be a draft plan by virtue of subsection (8), the Authority shall, as soon as reasonably practicable after such refusal, prepare another development plan for the purposes specified in subsection (1)(a), (b) and (c), and this section, other than subsection (1), applies to that other development plan."

20(1) By adding ", having regard to the advice of the Investment Committee established under section 8A," before "invest".

25(4) In the Chinese text, by deleting "管理局與該等附屬公司之間" and substituting "管理局及該等附屬公司".

25 By deleting subclause (5) and substituting -

"(5) The Authority shall ensure that the statement of accounts prepared under subsection (2) complies with -

(a) the manner in which the statement is to be prepared;

(b) any accounting standards; and

(c) any other requirement,

as may be notified to the Authority in writing by the Financial Secretary."

New By adding -

"30A. Annual report

(1) The Authority shall, in respect of each financial year, prepare an annual report of the Authority for that financial year.

(2) Without limiting the matters that the Authority may include in it, the annual report must -

(a) specify the work and activities of the Authority for that financial year and how they

- relate to the Authority's functions and the objectives specified in section 4(2);
- (b) specify the work and activities of the committees established under this Ordinance for that financial year;
 - (c) include the statement of accounts prepared under section 25(2) for that financial year;
 - (d) include the report submitted under section 26(3)(b) for that financial year; and
 - (e) include information on how the Authority, during the financial year, conducted or implemented the activities and projects set out -
 - (i) in the corporate plan sent in the previous financial year to the Secretary for Home Affairs under section 29(1); and
 - (ii) in the business plan sent in the previous financial year to the Secretary for Home Affairs under section 30(1).
- (3) In this section, "previous financial

year" (前一個財政年度) means the year immediately preceding the financial year to which the annual report relates."

31 In the heading, by deleting "**Reports, etc.**" and substituting "**Annual report**".

31 By deleting subclause (1) and substituting -
" (1) The Authority shall, within 6 months after the end of each financial year, submit to the Financial Secretary the annual report prepared under section 30A(1) for that financial year."

31(2) By deleting "documents" and substituting "report".

32(1) In the Chinese text, by deleting "獲得穩當的營運、" and substituting "的安全運作或獲得穩當的".

34 By deleting subclause (1) and substituting -
" (1) A Board member or a committee member shall disclose to the Authority any interest that he has which is of a class or description determined by the Authority under subsection (2) -
(a) on his first appointment;
(b) at the beginning of each calendar year after the appointment;

- (c) on becoming aware of the existence of an interest not previously disclosed under this subsection; and
- (d) after the occurrence of any change to an interest previously disclosed under this subsection."

34(5) By adding "; by such means as it considers appropriate," before "make available".

Schedule,
section 4 By adding "(including any change of the status of the member by reference to which he has been appointed for the purpose of complying with section 6(3) of this Ordinance)" after "cause".

Schedule,
section 9(1) (a) By deleting "Without affecting the generality of section 15, where" and substituting "Where".
(b) By deleting everything after "it" and substituting a full stop.

Schedule By deleting section 9(2).

Schedule,
section 15(1) By deleting "who is in any way directly or indirectly interested in any contract or any other matter which is to be discussed or considered by the Board at a Board meeting" and substituting

"present at a Board meeting is in any way directly or indirectly interested in any contract or any other matter which is to be discussed or considered by the Board at the meeting".

Schedule,
section
15(1)(a)

By deleting "(if he is present at the Board meeting)".

Schedule,
section 15

By adding -

"(1A) The Board may from time to time issue a guideline to set out the circumstances in which a Board member is to be regarded as being directly or indirectly interested in any contract or any other matter for the purposes of subsection (1)."

Schedule,
section 15(3)

In the Chinese text, by deleting "該合約的各方須以董事局認為合適的方式公布" and substituting "須以董事局認為合適的方式，公布該合約的各方".

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Honourable SIN Chung-kai

<u>Clause</u>	<u>Amendment Proposed</u>
4(1) [NEGATIVED]	By adding - “(ba) to conduct design competitions in an open manner relating to the overall planning of the plan area and the architecture of its arts and cultural venues and exhibition centre; “.
4 [NOT PROCEEDED WITH]	By deleting subclause(2) and substituting – “(2) The Authority shall perform its functions under subsection (1) in ways which aim to achieve the following objectives – (a) to recognize the right of everyone to take part in cultural life; (b) to facilitate the long-term development of Hong Kong as an international arts and cultural metropolis; (c) to uphold and encourage freedom of artistic and cultural expression and creativity; (d) to enhance and promote excellence, innovation, creativity and diversity in arts and culture; (e) to enhance the appreciation of a diverse and pluralistic range of the arts and culture; (f) to develop new and experimental works in arts and culture;

- (g) to cultivate and nurture local talents in the arts and culture (including local artists and writers), and local arts and cultural groups and arts-related and culture-related personnel;
- (h) to encourage wider participation by the local community in arts and culture;
- (i) to promote and provide arts and cultural education to the local community;
- (j) to facilitate the development of cultural and creative industries;
- (k) to facilitate and enhance cultural exchange and cooperation between the Mainland of China, Hong Kong and any other place;
- (l) to facilitate and enhance cooperation between any government or non-government body or organization and providers of the arts and culture, within and outside Hong Kong;
- (m) to encourage community, commercial and corporate support and sponsorship of arts and culture;
- (n) to provide or facilitate the provision of free and accessible open space within the leased area to the general public; and
- (o) to strengthen the position of Hong Kong as a tourist destination.”.

6(3)

NOT PROCEEDED
WITH

By deleting paragraph (c) and substituting –

- “(c) not less than 9 and not more than 15 other members who are not public officers, including –
- (i) at least 5 members who, in the opinion of the Chief Executive -
 - (A) have good standing in the field of arts and culture; or

- (B) have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities;
- (ii) 2 persons elected by the Members of the Legislative Council from among their own number ; and
- (iii) such other members who possess experience in management, engineering, planning, architecture, surveying, landscape architecture, accounting, finance, information technology, education, law or community service, or such professional or other experience as would, in the opinion of the Chief Executive, render them suitable for appointment; and”.

6

{ NOT PROCEEDED
WITH }

By deleting subclause (5) and substituting -

“(5) All Board members (other than the Chief Executive Officer and the members elected under subsection (3)(c)(ii)) are to be appointed by the Chief Executive.”.

6

{ NOT PROCEEDED
WITH }

By deleting subclause (9) and substituting -

“(9) Where the requirements of subsection (3) are not complied with as a result of any change in membership of the Board or any change of the status of any Board member, the Chief Executive or the Members of the Legislative Council shall as soon as reasonably practicable make the necessary appointment or elect from among their own number (as the case may be) to ensure that the requirements are complied with.”.

30

{ NEGATIVED }

By adding -

“(3) The Secretary for Home Affairs shall cause the estimated revenue and expenditure received under subsection

(1)(c)(i) to be laid on the table of the Legislative Council.”.

33

[NEGATIVED]

By deleting subclause (1) and substituting –

“(1) The Authority may make bylaws for one or more of the following purposes—

- (a) for the regulation, operation or management of arts and cultural facilities, related facilities or ancillary facilities;
- (b) subject to subsection (1A), for the conduct of all persons within any premises, buildings, structures, facilities or land (including public places) which the Authority holds or manages, whether within or outside the leased area.

(1A) The Authority, when making bylaws under subsection (1)(b), shall have regard to the purpose of the rights of all persons to enjoy the use of open space reasonably.”.

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Honourable Alan LEONG Kah-kit. S.C.

<u>Clause</u>	<u>Amendment Proposed</u>
6(3) [NOT PROCEEDED WITH]	By deleting paragraph (c) and substituting – “(c) not fewer than 8 and not more than 15 other members who are not public officers and are selected by the Chief Executive for appointment according to the principles and procedure in Part 5 of the Schedule;”.
6(3) [NOT PROCEEDED WITH]	By adding – “(ca) at least one member who is a member of the Legislative Council elected by members of the Legislative Council among themselves; and”.
7 [NOT PROCEEDED WITH]	By deleting “may, with the prior approval of the Chief Executive, appoint a person” and substituting “shall appoint a person according to the principles and procedure in Part 5 of the Schedule”.
Schedule [NOT PROCEEDED WITH]	By deleting “[s.12]” and substituting “[s.6,7 &12]”.
Schedule [NOT PROCEEDED WITH]	By adding – “PART 5

APPOINTMENT OF BOARD MEMBERS
AND CHIEF EXECUTIVE OFFICER

19. Principles and procedure

- (1) The Chief Executive in selecting a person for appointment as Board member and the

Authority in selecting a person for appointment as the Chief Executive Officer shall apply the following principles—

- (a) the person is selected on the basis of merit and appropriateness having regard to the requirements of the vacancy the appointment will fill;
- (b) no person is appointed without the objective scrutiny by a body independent of the body in which the vacancy arises;
- (c) the procedure for selection conforms with the principle of equal opportunity; and
- (d) consideration is given to the person's commitment to the following principles of public service—
 - (i) holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends;
 - (ii) holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties;

-
- (iii) in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit;
 - (iv) holders of public office are accountable for their decision and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;
 - (v) holders of public office should be as open as possible about all the decision and actions that they take. They should give reasons for their decision and restrict information only when the wider public interests clearly demand;
 - (vi) holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts in a way that protects the public interest; and
 - (vii) holders of public office

should promote and support these principles by leadership and example.

- (2) The procedure for the selection of a person for appointment as a Board member or the Chief Executive Officer shall include—
 - (a) public announcement of the particulars and requirements of the vacancy;
 - (b) making available to the public the procedure and criteria of appointment;
 - (c) providing appropriate resources for the selection process; and
 - (d) keeping a written record of the entire selection process.”.

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Honourable James TO Kun-sun

<u>Clause</u>	<u>Amendment Proposed</u>
6 [NEGATIVED]	<p>By deleting subclause (3) and substituting –</p> <p>“(3) Subject to subsection (12), the Board is to consist of –</p> <ul style="list-style-type: none">(a) the Chairman who may or may not be a public officer;(b) the Chief Executive Officer;(c) not less than 9 and not more than 15 other members who are not public officers, including –<ul style="list-style-type: none">(i) at least 5 members who, in the opinion of the Chief Executive -<ul style="list-style-type: none">(A) have good standing in the field of arts and culture; or(B) have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities;(ii) 2 persons elected by the Members of the Legislative Council from among their own number; and(iii) such other members who possess experience in management, engineering, planning, architecture, surveying, landscape architecture, accounting, finance, information technology, education, law or community service, or such professional or other experience as

would, in the opinion of the Chief Executive, render them suitable for appointment; and

(d) 3 other members who are public officers.”.

6

{NEGATIVED}

By deleting subclause (5) and substituting -

“(5) Subject to subsection (12), all Board members (other than the Chief Executive Officer and the members elected under subsection (3)(c)(ii)) are to be appointed by the Chief Executive.”.

6

{NEGATIVED}

By deleting subclause (9) and substituting -

“(9) Where the requirements of subsection (3) are not complied with as a result of any change in membership of the Board or any change of the status of any Board member, the Chief Executive or the Members of the Legislative Council or the Authority shall as soon as reasonably practicable make the necessary appointment or elect from among their own number or conduct election (as the case may be) to ensure that the requirements are complied with.”.

6

{NEGATIVED}

By adding -

“(12) After the Board has been established for 3 years, the members referred to in subsection (3)(c)(i) who have knowledge of, or experience in or exposure to arts and cultural activities shall be elected by such local users of the plan area (including but not limited to organizations or individuals in the arts and cultural sectors) as prescribed by bylaws made under subsection (13).

(13) The Authority may make bylaws for the election referred to in subsection (12).”.

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Honourable CHAN Yuen-han, SBS, J.P.

ClauseAmendment Proposed

- 6(3) By deleting paragraph (c) and substituting -
- [NOT PROCEEDED
WITH]
- " (c) not less than 9 and not more than 15 other members who are not public officers, including -
- (i) at least 7 members who, in the opinion of the Chief Executive -
 - (A) have good standing in the field of arts and culture from Hong Kong, Mainland of China and international separately; or
 - (B) have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities, including those have the following experience and knowledge-
 - (I) arts or culture management, education or planning;
 - (II) arts or culture creation,

interpretation or
critics;

(III) arts or culture
donation;

- (ii) at least one member who is a member of the Legislative Council; and
- (iii) such other members who possess experience in management, engineering, planning, architecture, surveying, accounting, finance, education, law or community service, or such professional or other experience as would, in the opinion of the Chief Executive, render them suitable for appointment; and".

18

~~NEGATIVED~~

By deleting subclause (3) and substituting -
"(3) In preparing a development plan, the
Authority shall-

- (a) consult the public extensively,
including representatives of
public opinion, and from fields of
arts and culture, academic and
professionals, in 3 stages-
 - (i) planning concept;
 - (ii) between the subparagraphs
(i) and (iii) public
consultation, hold
hearings to bring out
professional opinion;
 - (iii) before each detailed
planning proposal is
confirmed;
- (b) publicize the specific mentioned
in paragraph(a) in advance; and
- (c) consult the Secretary for Home
Affairs."

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Honourable James TO Kun-sunClauseAmendment Proposed

9

[NEGATIVED]

By deleting subclause (8) and substituting -

“(8) A committee established under this section may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers appropriate, and when regulating the meeting procedures of the committee, shall make reference to section 11(3) and (4) of the Schedule.”.

17

[NEGATIVED]

By deleting the clause and substituting –

“17. Public consultation

Without prejudice to section 18(3)(a), the Authority shall, in relation to matters concerning the development or operation of arts and cultural facilities, related facilities, ancillary facilities and any other matters as the Authority considers fit, consult the public regularly and widely (consultation methods including but not limiting to opinion polls, public forums, workshops, panel discussion, etc.), and shall make public the results of public consultation.”.

33

[NEGATIVED]

By deleting the clause and substituting –

“33. Power of Authority to make bylaws

(1) The Authority may make bylaws for one or more of the following purposes—
 (a) for the regulation, operation or

management of arts and cultural facilities, related facilities or ancillary facilities;

- (b) subject to subsection (3), for the conduct of all persons within any premises, buildings, structures, facilities or land (including public places) which the Authority holds or manages, whether within or outside the leased area.

(2) The Authority shall make bylaws relating to the management of its collections, including but not limited to acquiring, selling, returning, keeping, accessioning, deaccessioning and disposal of the collections.

(3) The Authority, when making bylaws under subsection (1)(b), shall have regard to the purpose of the rights of all persons to enjoy the use of open space reasonably.

(4) The following provisions apply in relation to bylaws made under subsections (1) and (2) —

- (a) any of the bylaws may provide that a contravention of any specified provision in the bylaws is an offence and may prescribe penalties not exceeding a fine at level 3;
- (b) without prejudice to any Ordinance relating to the prosecution of criminal offences or the powers of the Secretary for Justice in relation to the prosecution of criminal offences, prosecutions under any of the bylaws may be brought in the name of the Authority;
- (c) all bylaws are subject to the approval of the Legislative Council.”.

Schedule,
section 11
[NEGATIVED]

By adding –

“ (3) Subject to subsection (4), a Board meeting shall be open to the public.

(4) Subsection (3) does not apply to a Board meeting or a part of a Board meeting in the following circumstances—

- (a) if, in the opinion of the Board, it is likely that the application of that subsection would result —
 - (i) in premature release of information concerning any financial matter or investment of the Board; or
 - (ii) in a disclosure of information in breach of any law, order or direction of a court or tribunal, duty of confidentiality, or other legal obligation or duty;
- (b) if, in the opinion of the Board, it is likely that any matter to be discussed or considered at the meeting or part of the meeting concerns —
 - (i) personnel matters; or
 - (ii) the assessment of individual contract; or
- (c) if the Board, having regard to the matter under discussion involves commercial and sensitive information, reasonably considers that that subsection should not apply to the meeting or part of the meeting.”.