

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 12 July 2006

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

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

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

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

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

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE RAFAEL HUI SI-YAN, G.B.S., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.

THE FINANCIAL SECRETARY

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

SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

DR THE HONOURABLE PATRICK HO CHI-PING, J.P.

SECRETARY FOR HOME AFFAIRS

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

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

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

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

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

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

TABLING OF PAPERS

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

- No. 101 — Report by the Commissioner of Correctional Services on the administration of the Prisoners' Welfare Fund for the year ended 31 March 2006
- No. 102 — Audited Financial Statements and Report on Activities of the Hong Kong Examinations and Assessment Authority for the year ending 31 August 2005
- No. 103 — Hong Kong Export Credit Insurance Corporation Annual Report 2005-2006
- No. 104 — Report of the J.E. Joseph Trust Fund Trustee, and Audited Statement of Accounts and Auditor's Report for the Fund, for the year from 1 April 2005 to 31 March 2006
- No. 105 — Report of the Kadoorie Agricultural Aid Loan Fund Committee, and Audited Statement of Accounts and Auditor's Report for the Fund, for the year from 1 April 2005 to 31 March 2006
- No. 106 — Sir Robert Black Trust Fund Annual Report for the year from 1 April 2005 to 31 March 2006

- No. 107 — Sir David Trench Fund for Recreation
Trustee's Report 2005-2006
- No. 108 — Construction Industry Training Authority
Annual Report 2005
- No. 109 — Clothing Industry Training Authority
Annual Report 2005
- No. 110 — Report of the Public Accounts Committee on Report
No. 46 of the Director of Audit on the Results of Value for
Money Audits
(July 2006 - P.A.C. Report No. 46)

Committee on Rules of Procedure of the Legislative Council of the Hong
Kong Special Administrative Region — Progress Report for the 2005-06
session (1 July 2005 to 12 July 2006)

Report of the Panel on Commerce and Industry 2005/2006

Report of the Panel on Public Service 2005/2006

Report of the Panel on Administration of Justice and Legal Services
2005/2006

Report of the Panel on Transport 2005/2006

Report of the Panel on Housing 2005/2006

Report of the Panel on Financial Affairs 2005/2006

Report of the Panel on Education 2005/2006

Report of the Panel on Planning, Lands and Works 2005/2006

Report of the Panel on Welfare Services 2005/2006

Report of the Panel on Information Technology and Broadcasting 2005/2006

Report of the Panel on Economic Services 2005/2006

Report of the Panel on Health Services 2005/2006

Report of the Panel on Environmental Affairs 2005/2006

Report of the Bills Committee on Betting Duty (Amendment) Bill 2006

Report of the Bills Committee on Financial Reporting Council Bill

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Dr Philip WONG, Chairman of the Public Accounts Committee, will address the Council on the Committee's Report on Report No. 46 of the Director of Audit on the Results of Value for Money Audits.

Report of the Public Accounts Committee on Report No. 46 of the Director of Audit on the Results of Value for Money Audits

DR PHILIP WONG (in Cantonese): Madam President, on behalf of the Public Accounts Committee (the Committee), I have the honour to table our Report No. 46 today. Our Report corresponds with the Director of Audit's Report (Audit Report) No. 46 on the results of value for money audits, which was tabled in the Legislative Council on 26 April 2006.

As in previous years, the Committee has selected for detailed examination only those chapters which, in our view, contained more serious allegations of irregularities or shortcomings. The Report tabled today covers the process and results of our deliberations on two of the three chapters selected.

The Committee has decided to defer a full report on the subject "Collection of fines imposed by Magistrates' Courts" as the witnesses who attended the public hearings were not able to provide the information sought by

the Committee on some of the issues raised, and needed more time to work out how they would implement some of the audit recommendations. The Committee has requested the witnesses to provide further information and progress reports on the implementation of the various audit recommendations. We will endeavour to finalize our report to the Council at the earliest opportunity.

The two main chapters covered in our Report are related to Radio Television Hong Kong (RTHK).

The Audit Commission (Audit) had conducted three value for money audits on RTHK in 1997, 1999 and 2001 respectively, which the Committee had examined. This is the fourth one since 1997. Since 1997, a number of internal and external reviews of RTHK had been carried out.

The Committee is seriously dismayed and finds it unacceptable that, the latest audit review has shown that a number of irregularities identified in previous audit reviews and other reviews still exist. The cases of non-compliance and irregularities highlight the lack of a culture among RTHK staff to comply with applicable regulations, guidelines and procedures. Moreover, not sufficient priority has been given by the RTHK management to strengthening its internal control and risk management.

The Committee recognizes the special nature of RTHK as a public service broadcaster operating in a competitive media environment. However, this should not be an excuse for non-compliance with applicable government rules and regulations. RTHK should seek exemption if special circumstances justify it.

The Committee agrees that, whilst the amounts of public fund involved in individual cases identified by Audit might not be substantial, the irregularities are a cause for concern, taking into account their nature, prevalence, and the risks that they posed to the proper use of public funds.

The Committee affirms the positive attitude of RTHK's top management, demonstrated at the Committee's public hearings, towards the need to achieve full compliance with government rules and regulations, as well as its resolve to foster a compliance culture among staff. RTHK has proposed to adopt

"compliance" as one of the core competencies under its proposed new staff appraisal system.

The Committee strongly urges the Director of Broadcasting to take expeditious actions to rectify the irregularities identified in the audit and other reviews, and to ensure that they will not recur.

I now turn to the Committee's conclusions on the irregularities identified by Audit.

In 2002, RTHK developed a fee scale table setting out a framework for the staff to follow in determining the fees to be offered to departmental contract staff (DCS) and service providers. The Committee is seriously concerned that, despite the recommendation of the Civil Service Bureau, the Independent Commission Against Corruption and the RTHK's System Review Unit, various issues relating to the benchmarking of the table against comparable civil service posts and the going market rates have not been properly addressed in the table currently in use.

The Committee is seriously concerned that Audit has revealed various irregularities in the keeping of attendance records of DCS and service providers. We are also seriously concerned about RTHK's undesirable practices of giving covering approval for overtime work and additional work, and signing employment contracts after work had commenced.

In response to the audit review of 1997, RTHK had committed, in March 2000, to regularizing the employment of about 130 full-time DCS III by appointing them on non-civil service contract terms, and to completing that exercise by the end of 2000. The Committee is gravely concerned that, despite that commitment, RTHK has continued to employ both full-time and part-time DCS III. The number of such staff remains high.

The Committee is seriously concerned that the contractor of the outside broadcast (OB) contracts did not always comply with the contract terms. In some cases, staff members with the required experience and track records specified in the contracts were not provided to RTHK for the OB work. There was no documentary evidence to show that RTHK had formally considered the question of potential conflict of interest before awarding these contracts. The conflict of interest situation has, to a certain extent, compromised RTHK's

efforts in re-scheduling rest days of the Technical Services Agreement (TSA) staff for the purpose of reducing overtime work to a minimum.

The audit review of 1999 had highlighted the need and made recommendations for RTHK to minimize overtime payments under the TSA. However, the Committee is concerned that there has not been sufficient efforts to further reduce overtime payments under the TSA.

The Committee is also concerned that there was no documentation of the justifications for RTHK's drivers to perform overtime work during normal meal break time. The practice of requiring drivers to work overtime for buying newspapers early in the morning is not cost-effective. Moreover, RTHK's checking of overtime work registers was inadequate

The Committee is seriously concerned about the cases in which the journey details recorded in the vehicle logbooks had not been certified by the vehicle users concerned.

The Committee is also seriously concerned that the irregularities revealed by the Government Logistics Department's system survey of 2005 highlighted a lack of compliance culture among staff of RTHK, as far as procurement matters are concerned. Cases of non-compliance with the Stores and Procurement Regulations and other relevant guidelines were also revealed by Audit.

The Committee is concerned that RTHK had not made sufficient efforts to economize on official and programme-related entertainment. In some cases, expenses relating to entertainment functions which involved only government staff were charged to public funds. This is unacceptable.

The Committee is seriously concerned that RTHK's practice of accepting sponsorships in kind from commercial organizations is not in compliance with the existing government policy on sponsorship for programmes. We are seriously dismayed and find it unacceptable that the Secretary for the Civil Service's approval was not sought by RTHK for two official visits to Taiwan. This was in violation of the requirement under the relevant Civil Service Bureau Circular.

The Committee is seriously concerned that although inadequacies in RTHK's budgetary control system had been identified in the audit review of

2001, the System Review Unit's review in 2005 and the latest audit review still found significant budget variances. Without a formal strategic plan as a basis for systematic performance measurement and reporting, it is difficult for RTHK to demonstrate its success in achieving its strategic goals, particularly in fulfilling the role as a public service broadcaster.

Madam President, I should like to mention here that, according to the arrangements agreed among the Committee, the Administration and the Director of Audit in 2000, departments should not speak or confirm the audit investigations before the Director of Audit's report has been tabled in this Council. They may only respond to press enquiries after tabling of the report, but should refrain from initiating publicity to counter the audit findings before public hearings.

The Committee noted that prior to and after Audit Report No. 46 was tabled, there had been a large amount of media coverage of the matters dealt with in the Report. Some of the coverage provided details of certain contents of the Audit Report in advance of it being made public upon tabling in the Council. There had also been coverage, appearing after the Audit Report was made public, which contained a wide range of comments on certain details of the Report by public officers. Such comments went beyond mere response to media enquiries.

The Committee was dismayed at the leakage of the contents of the Report as well as some of the comments that were attributed to public officers. I have written to the Chief Secretary for Administration and urged him to ensure that the agreed arrangements would be observed to facilitate the work of the Committee.

The Chief Secretary for Administration has reiterated the Administration's commitment to upholding the agreed arrangements of 2000 to facilitate the smooth operation of the Committee. The Administration would remind Directors of Bureaux and Controlling Officers of the importance of giving full co-operation with the Committee.

Madam President, as always, the Committee has made its conclusions and recommendations in this Report with the aim of ensuring the achievement of value for money in the delivery of public services.

I wish to record my appreciation of the contribution made by members of the Committee. Our gratitude also goes to the representatives of the Administration who have attended before the Committee. We are grateful to the Director of Audit and his colleagues, as well as the staff of the Legislative Council Secretariat, for their unfailing support and hard work.

Thank you.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG will address the Council on the Report of the Panel on Commerce and Industry 2005/2006.

Report of the Panel on Commerce and Industry 2005/2006

MRS SOPHIE LEUNG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Commerce and Industry, I present this year's report on the work of the Panel, and give a brief account on several major areas of work.

The Panel closely monitored the preparatory work for the Sixth Ministerial Conference (MC6) held in Hong Kong from 13 to 18 December 2005 and reviewed the event after its conclusion. The Panel considered that MC6 had been successfully hosted by the Government of the Hong Kong Special Administrative Region (SAR). In particular, members found it encouraging that after rounds of tough negotiations, the ministers had adopted the Hong Kong Ministerial Declaration which was a major step forward in the multilateral trade negotiations under the Doha Development Agenda. To send a positive signal on trade liberalization, members urged that the outcomes achieved by MC6 in various negotiation areas should be more widely publicized.

The Panel welcomed the implementation of the Third Phase of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) starting from 1 January 2006, whereby all products of Hong Kong origin could be exported to the Mainland tariff-free since then. The Panel urged that the Administration should take proactive measures to promote CEPA to overseas investors. Some members also urged that assistance should be rendered to local industries (including certain traditional industries) to move up the value chain, so as to fully realize the potential of CEPA. The Administration assured the Panel of its ongoing effort to promote the business opportunities under CEPA.

Regarding the innovation and technology development, the Panel had discussed the establishment of the Research and Development Centre on Information and Communications Technologies (the Centre), and was in support of it. The Centre became operational in April 2006. Members emphasized that it was imperative to enhance commercialization of research and development products, and there should be a proper mechanism for deciding intellectual property rights and sharing of benefits generated from the projects.

Before the introduction of the Copyright (Amendment) Bill 2006 into the Council, the Panel had discussed the Government's legislative proposal on copyright. Members urged that the Administration should fully take into account the views of all interested parties and the general public before finalizing the proposal. The Bill is now being scrutinized by a bills committee.

The Panel was briefed by the various Heads of Economic and Trade Office (ETOs) and the Office of the SAR Government in Beijing on the major activities and the latest development in economic and trade related matters under their respective purview. Members appreciated the support rendered by ETOs in enhancing closer economic and trade partnership between Hong Kong and the countries concerned. As regards the provision of assistance to Hong Kong residents in distress in the Mainland, the Panel was pleased to note that the function of the Guangdong ETO was enhanced to provide practical assistance to Hong Kong residents in distress. Some members opined that the coverage of support rendered by ETOs should be expanded to cover Hong Kong residents taking up employment in the Mainland. The Panel also noted that a new ETO would be set up Berlin, while another two new ETOs would be set up in Shanghai and Chengdu.

The written report also gives an account on the work of the Panel in other areas during the year. I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): Ms LI Fung-ying will address the Council on the Report of the Panel on Public Service 2005/2006.

Report of the Panel on Public Service 2005/2006

MS LI FUNG-YING (in Cantonese): Madam President, in my capacity as Deputy Chairman of the Panel on Public Service, I present to the Legislative

Council the Report on the work of the Panel from October 2005 to June 2006. The Report gives an account on the major work of the Panel in the past year. I would like to highlight a few key points here.

In the past year, the Panel closely monitored the policy issues pertaining to the management of the Civil Service, including containing the size of the Civil Service and employment of non-civil service contract (NCSC) staff, as well as the new policy initiative regarding the implementation of a five-day week in the Government. The Panel also followed up the progress of the Pay Level Survey (PLS) for the Civil Service and the findings of two reviews, including the review of fringe benefit type of civil service allowances and the review of policy governing post-retirement employment of former directorate civil servants. Furthermore, the Panel examined issues concerning civil servants, including civil servants' right to take part in trade union activities.

On containing the size of the Civil Service, the Panel noted that the civil service establishment had been reduced from about 198 000 posts in 2000 to around 162 800 in March 2006, which represented a reduction of about 36 000 posts (about 18%) in seven years. The actual number of civil servant is only around 157 000 at present. The Panel expressed concern that the general recruitment freeze might delay the filling of civil service posts vacated through natural wastage. The Panel urged the Administration to stop further reducing the civil service establishment, and to review the manpower positions of bureaux and departments so as to maintain the quality of government services and reduce the pressure faced by civil servants after the significant reduction in manpower in the past few years. In this connection, the Panel supported the option proposed by the Administration to allow some 20 or so of the grades included in the Second Voluntary Retirement (VR) Scheme, which were facing manpower shortage problem, to resume open recruitment before the recruitment freeze imposed on these VR grades expired in March 2008.

The Panel was also concerned that, in order to achieve the target for reducing the civil service establishment, various bureaux and departments had been employing NCSC staff. In this respect, the Panel welcomed the Administration's initiative to conduct a special review of the NCSC staff situation on a department-by-department basis. Members requested the Administration to review whether there was an abuse, so as to ensure that the Heads of Department observed the principle and that the appointment of NCSC staff would not be used to replace civil service appointments. The Panel also

urged that the Administration should consider, after the review, whether some of the NCSC posts, in particular those created to meet service needs on a long-term basis or those filled by NCSC staff continuously for five years or more, should be converted to civil service posts.

As regards the new initiative of introducing a five-day week in the Government with effect from 1 July 2006, members generally indicated their support for the phased implementation approach, but stressed that no additional government expenditure and no reduction in government services should be involved in the implementation of five-day week. The Panel also urged the Government to formulate contingency plans, closely monitor the implementation of five-day week and review its impact on service quality, the public and the civil servants, with a view to assessing the need for fine-tuning the new arrangement.

As regards the PLS for the Civil Service, the Panel expressed concern about the slow progress of the survey, which would affect the implementation of civil service pay adjustments. The Consultant's survey report was expected to be submitted by the end of this year, and the Administration aimed to decide on the application of the survey findings in mid-2007 after consultation with the staff side. The Panel urged that the Administration should maintain close communication with the staff side so as to ensure that staff feedback would be taken into account throughout the process of the survey.

On the review of fringe benefit type of civil service allowances, the Panel noted that a majority of civil service staff bodies considered the final change proposals acceptable. Members were, however, concerned about the views expressed by the Police Force Council Staff Side. It was of the view that the change proposals represented a unilateral variation of the terms of employment of civil servants and were therefore unlawful. The Administration had consulted the Department of Justice, which advised that the final change proposals were lawful, and might be effected under the unilateral variation clause embodied in the terms of appointment of civil servants without the enactment of legislation. The Panel was assured that the final change proposals were lawful, fair and reasonable.

As regards the Administration's review of the policy on post-retirement employment of former directorate civil servants, the Panel welcomed the revised arrangements put forward by the Administration to improve the existing control regime to guard against conflict of interest. However, given that more and

more directorate officers were employed on agreement terms or NCSC terms, members considered that there was a need to govern the post-service employment arrangement of these officers, for example, the specification of minimum sanitization periods. The Administration advised that the need for sanitization period or other restrictions on agreement would be determined on a case-by-case basis having regard to the circumstances of each case.

In examining civil servants' right to take part in trade union activities, the Panel noted that civil servants, as Hong Kong residents, could exercise their right to strike under Article 27 of the Basic Law. In this connection, it was the Administration's policy to deduct, in accordance with the "no work, no pay" principle, salary from officers who had absented themselves from duty without approval. The Panel was concerned that the text of Civil Service Regulation (CSR) 610 failed to reflect the relevant policy. The Administration undertook to review the text of the provision and consult the staff sides on the relevant technical amendments. The Panel also expressed concern that as a result of the non-application of the Employment Ordinance (EO) to the Government, civil servants and other employees of the Government did not enjoy the same protection as employees of private companies did under the EO. In this connection, the Panel urged that the Administration should consider application of the EO to the Government.

Lastly, I would like to take this opportunity to thank members of the Panel and the Secretariat for their contribution to the work of the Panel.

Madam President, I so submit.

PRESIDENT (in Cantonese): Ms Margaret NG will address the Council on the Report of the Panel on Administration of Justice and Legal Services 2005/2006.

Report of the Panel on Administration of Justice and Legal Services 2005/2006

MS MARGARET NG (in Cantonese): Madam President, excuse me, I have not yet found the right page.

Madam President, I have to apologize, for the Court of Final Appeal has just handed down its judgement, we are thus in a hurry to examine the content of the judgement.

MS MARGARET NG: In my capacity as the Chairman of the Panel on Administration of Justice and Legal Services (the Panel), I briefly report on the major work of the Panel in the 2005-06 Session.

The Panel considered that the Judiciary's budgetary arrangement should be reviewed to build in clearer institutional safeguards to ensure that judicial independence was not subject to executive influence, and that the Judiciary was provided with adequate resources for the proper administration of justice. Following discussions by the Panel, the Administration agreed to adopt a revised budgetary arrangement which allowed the Judiciary to submit its resource requirements prior to the Administration drawing up the operating expenditure envelope for the Judiciary. The Panel was pleased to note that the revised budgetary arrangement had been adopted for the Judiciary's draft Estimates for 2006-07, and would be extended as a standing practice for the coming Estimates.

Regarding the establishment of an arrangement on reciprocal enforcement of judgement in commercial matters with the Mainland (the Arrangement), the Panel was briefed on the latest developments in the current Session. Pursuant to the discussions with the mainland authorities and having regard to members' views and concerns, the Administration had come up with a revised proposal which would apply to money judgements of commercial cases made pursuant to a valid exclusive choice of court agreement in writing. Under the revised proposal, the Arrangement would only apply if the parties concerned expressly agreed in writing to designate a court of the Mainland or the Hong Kong Special Administrative Region (SAR) to have exclusive jurisdiction for resolving any dispute. A set of special procedures would be in place to address the common law requirements of finality. The Arrangement should also cover a small number of Basic Level People's Courts designated to handle foreign-related civil and commercial cases. The Panel noted that the Arrangement would only become effective when the SAR had completed the relevant legislative procedures and the Mainland had promulgated a judicial interpretation to give effect to the Arrangement.

During the Session, the Panel had followed up the issue of imposition of criminal liability on the Government or public officers. The Panel was

disappointed that the Administration had maintained the view that the existing policy of not imposing criminal liability on the Government and public officers should be retained, and the existing system of reporting any contraventions to the Chief Secretary for Administration was adequate. The Panel considered that all people, including public officers and private individuals, should abide by the statutes applicable to them in the same way and in all circumstances, and adopting different approaches was unfair and inconsistent with the principle of equality before the law. The Panel concluded that when legislative proposals were introduced into Legislative Council imposing obligations which were also binding on the Government, the issue of public officers' immunity from criminal liability, if they were in breach of those obligations in discharging their public duties, should be considered on a case-by-case basis in the same way as the other policy proposals of a bill. Where a reporting mechanism was provided in lieu of criminal liability on the public officers concerned, measures should be taken to ensure the effectiveness and transparency of the mechanism by taking appropriate disciplinary action against individual officers responsible for the contravention and making public such disciplinary action.

The review of the Professional Indemnity Scheme conducted by The Law Society of Hong Kong (the Law Society) was closely monitored by the Panel. The main criticism of the existing scheme was that it made solicitors the insurers of last resort for each other, and for unlimited amounts in the event of insurer insolvency. In November 2004, members of the Law Society voted in favour of replacing the existing scheme with a Qualifying Insurers Scheme (QIS), which was supported in principle by the Administration. The QIS proposal as embodied in the draft Rules was put to members of the Law Society for approval in April 2006. However, members of the Law Society voted by a large majority not to replace the existing scheme by a QIS. The Law Society had subsequently set up a working party to follow up the matter, including making arrangements to negotiate with insurers for renewal of the existing cover. The Panel requested the Law Society to keep the Panel informed of further developments in due course.

The Panel had initiated discussions on the issue of recovery agents, which were organizations providing services to help clients handle their claims for accident compensation in return for a fee as a percentage of the recovered damages. The Panel expressed grave concerns about the legality of the operation of recovery agents, and requested the Administration to consider measures to regulate recovery agents, including instituting prosecution and

introducing legislation. In response to the concerns of the Panel, the Administration had implemented measures to increase public awareness of the inappropriate activities of recovery agents, including putting up posters or notices in relevant government departments and hospitals. While the Administration would consider bringing prosecution proceedings if evidence of criminal acts was uncovered, it did not consider that a case for legislation had been made out for the time being. The Panel requested the Administration to continue to monitor the situation before deciding on the way forward.

Having regard to the grave concerns expressed by the two legal professional bodies that the current system and level of remuneration for lawyers in criminal legal aid work was unsatisfactory and unrealistically low, the Panel requested the Administration to set up a working group with the two legal professional bodies and conduct a comprehensive review of the criminal legal aid fees system. The Panel noted that the Administration had held meetings with the relevant stakeholders to discuss the relevant issues and would report further developments to the Panel in due course.

Madam President, these are my short remarks on the Report.

I should like to take this opportunity to express my deep appreciation to the Clerk of the Panel and her colleagues for their excellent professional support throughout the Session, and I am sure my sentiments are shared by all members of the Panel.

PRESIDENT (in Cantonese): Mr LAU Kong-wah will address the Council on the Report of the Panel on Transport 2005/2006.

Report of the Panel on Transport 2005/2006

MR LAU KONG-WAH (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Transport, I now present to the Legislative Council the Report of the Panel in the 2005-06 Legislative Session and briefly highlight some major items of work of the Panel.

In this Legislative Session, the Panel was consulted on a number of major transport issues, including the proposed merger of the Mass Transit Railway

(MTR) and Kowloon-Canton Railway (KCR) Systems. In discussing the proposed merger deal, the primary concern of members was whether the package proposal put forward by the Administration was a fair and balanced deal which could bring overall benefits to the community whilst balancing the interests of all stakeholders. With regard to the bill related to the merger of the two railway corporations, it had already gone through the First Reading last week, and Honourable colleagues may deliberate the bill later on in detail.

The issue of high transport fares has always been one of the major concerns of the Panel. In this Session, the Panel had examined the fare reduction packages presented by franchised bus companies and the two railway corporations as well as the fare adjustment mechanisms. Members urged the transport operators to keep their fares down as far as possible, and offer concessionary fares to the elderly and persons with disabilities.

In order to follow up the work of the Administration and the two railway corporations in planning, implementing new railway projects as well as the operations of the existing railways, the Panel had established a subcommittee to specifically study various matters related to the railways. During this Legislative Session, the Subcommittee had held several meetings to discuss the East Rail underframe mounting problem. Members urged the authorities and the KCR to expeditiously identify the causes of the problem and formulate relevant improvement measures, so as to ensure the safety of railway operations. The Subcommittee had also reviewed the planning and operation of the Kowloon Southern Link, the Northern Link, the Hong Kong section of Guangzhou-Shenzhen-Hong Kong Express Rail Link and the Shatin to Central Link.

With the gradual expansion of railway network, the Panel understood that the transport sector was very concerned about the policies of the authorities in bringing about inter-modal co-ordination of public transport services. In order to minimize vicious competition among different modes of transport as well as improve their business environments, the Panel had met with the representatives of different trades in the transport sector. It had also discussed with the Administration on the business scope and operation of the various modes of transport as well as their respective roles and functions.

In the aspect of cross-boundary transport and infrastructure, the Panel had reviewed a number of key infrastructure projects and undertook a duty visit to

Guangdong on 5 and 6 December 2005 to observe the latest development of cross-boundary infrastructure projects. During the two-day visit, the delegation had exchanged views with the relevant committees of Guangdong Provincial People's Congress on a wide range of transport issues. Officials from the Guangdong Provincial Transportation Department, and the Guangdong Provincial Development and Reform Committee also briefed the delegation on the development of highways, waterways, railways and airports in the province and the development plans for transport facilities throughout Guangdong.

The Panel had also reviewed the progress of the Hong Kong-Shenzhen Western Corridor and the Hong Kong-Zhuhai-Macao Bridge, and urged the authorities to formulate suitable measures to ease the traffic congestion problem in the Northwest New Territories.

Enhancing road safety is another significant item of work of the Panel. During the Session, the Panel reviewed the effectiveness of the road safety legislation implemented in the past few years, particularly the ones relating to drink driving and use of mobile phone while driving. The Panel also reviewed measures implemented for enhancing the safety of public light bus and taxi operations.

Madam President, I have already briefly outlined the work of the Transport Panel in this Session.

I would like to take this opportunity to thank staff members of the Secretariat who, despite the very heavy workload, still managed to provide us with support in an effective and accurate manner and they have displayed professionalism in their work. I am also grateful to members and the Administration for their contribution to the work of the Panel during the past year. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam will address the Council on the Report of the Panel on Housing 2005/2006.

Report of the Panel on Housing 2005/2006

MR CHAN KAM-LAM (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Housing, I present a report to the Legislative Council

on the work of the Panel in the 2005-06 Session and briefly highlight several major items of work contained in the report.

The divestment of the Housing Authority (HA)'s retail and car-parking facilities (RC facilities) through the establishment of The Link Real Estate Investment Trust (The Link REIT) remained high on the agenda of the Panel throughout the Legislative Session. After The Link REIT secured a public listing in November 2005, The Link Management (The Link) introduced different rents increases to its commercial tenants, re-grouped its property management contracts and planned to reduce over 1 000 non-skilled jobs. The public is extremely concerned about these developments. A joint meeting of the Panel and the Panel on Manpower was held with representatives from The Link and the Administration to discuss the relevant issues. Members were disappointed at The Link's introduction of rent increases to commercial premises under its management. Despite The Link's claim that there had been increases in patronage and shoppers' traffic in the majority of its shopping centres, members were not convinced and urged The Link to honour its previous undertaking of enhancing the overall commercial attractiveness of retail properties before considering rent increases on the commercial properties. The Link should continue with the concessionary rent arrangement for welfare facilities to meet the needs of public rental housing (PRH) tenants. The Link was urged to strengthen monitoring of its contractors to ensure that non-skilled workers were provided with reasonable remunerations and conditions of work and to stop labour exploitation. In response, The Link stressed its commitment to providing better service to customers and PRH tenants, and protecting the interests of workers. It also undertook to follow up the various complaints.

The HA published the Consultation Paper on Review of Domestic Rent Policy in early March 2006 to seek public views on proposals for improving the policy and adjustment mechanism of domestic rents of PRH. The Panel had held a series of meetings to discuss the proposals and listen to the views of people from different sectors of society. The Panel considered that the proposal of introducing a rent adjustment mechanism with reference to movements in the Consumer Price Index (CPI) or tenants' household income would better measure tenants' affordability. However, the Panel was gravely concerned that measures to improve the compilation of MRIR and introducing exclusive rents were means to pave the way for the HA to increase rents. In this connection, the Panel passed a motion to request the HA to reduce the rents first, so as to bring them in line with the decrease in the household incomes during the past few

years, before conducting a review of the rent adjustment mechanism. A member suspected that the Government had intended to bypass the Legislative Council and the existing Housing Ordinance (HO) and introduce a rent increase through administrative means. In particular, they called upon the Administration to make suitable amendments to the HO for establishing a rational and sustainable rent adjustment mechanism. The implementation of differential rents in PRH flats had sparked off wide public concern. Members did not support the proposal as they thought that it was not suitable to introduce market principles in determining PRH rents, and the proposal will have a labelling effect on poor tenants.

The Panel welcomed the authorities' move to resume disposing of surplus HOS flats from 2007 onwards. In order to provide flexibility in the sale programme, the authorities agreed to consider members' suggestion of adjusting the split ratio between Green Form and White Form applicants and extending the priority to clearerees affected by the Urban Renewal Authority and the Hong Kong Housing Society. To protect the interests of prospective buyers, the Panel urged the authorities to provide longer defect liability period (DLP) and structural safety guarantee (SSG) for the flats concerned. In this connection, the authorities agreed that a DLP of one year would be provided. With regard to unsold HOS blocks/developments, a SSG of 10 years would be provided. For HOS projects in Tin Shui Wai, the SSG would be extended to 20 years.

The protection of the interests of non-skilled workers employed by the HA's contractors remained the concern of the Panel. Members generally indicated support for the tightened measures implemented by the HA in order to strengthen the deterrent effect against such offences. Members particularly welcomed the measure to remove contractors with accumulated convictions and demerit points relating to such offences from the HA's approved lists. In order to enhance deterrent effects of the list management measure, members urged the HA to consider delisting contractors from the approved lists if their sub-contractors were convicted of the offences. In the aspect of regulating contracts, members were of the view that the existing contract requirement of capping the number of part-time workers at no more than three eighths of the total workforce for each contract (the cap) was too lenient. They urged the authorities to reduce the cap and consider additional contract requirements to regulate the wages and fringe benefits of part-time workers. The Panel saw the need to protect the identity of workers to ensure their interests would not be jeopardized by reporting on exploitation.

The Panel also closely followed up issues related to the regulation of the sales of first-hand residential properties, and explored measures that would help ensure the accuracy of property information. In this regard, the Administration had agreed to discuss with the Real Estate Developers Association of Hong Kong on members' suggestions regarding prompt provision of price list for additional units on offer under a private sale and standardizing the definition of gross floor area of units, as well as to consider other appropriate measures to strengthen the deterrent effect of the existing mechanism

The other major items of work of the Panel have all been included in the report submitted. Madam President, I so submit.

PRESIDENT (in Cantonese): Mr Bernard CHAN will address the Council on the Report of the Panel on Financial Affairs 2005/2006.

Report of the Panel on Financial Affairs 2005/2006

MR BERNARD CHAN: Madam President, in my capacity as the Chairman of the Panel on Financial Affairs (the Panel), I present the report on the work of the Panel from October 2005 to 3 July 2006. I now address the Council on the major issues covered by the Report.

On Hong Kong's overall economic situation, the Panel was pleased to note that the Hong Kong economy sustained its strong upturn and that the Government was able to restore fiscal balance in the Operating and Consolidated Accounts in 2005-06. Given the improvement in economic performance and the Government's fiscal position, members requested the Administration to provide tax relief to the public. Moreover, noting the rise in the number of low-income households by nearly 100 000 over the past decade, members urged the Administration to combat poverty and address the problem of widened gap between the rich and the poor.

Given the increased competition from other economies, the Panel examined with the Administration the strategies for maintaining Hong Kong's status as an international financial centre and avoiding Hong Kong's financial

market from being marginalized. The Panel supported the Administration's initiatives to seek continuous improvement of the regulatory regime, to maintain the stability of the financial market, to facilitate the development of new financial products, to enhance liaison and co-operation with the Mainland, to enhance international co-operation, and to train and pool talents of the financial services sector.

Noting that the actual return of the Exchange Fund in 2005 was 3.1%, which exceeded the benchmark return by only 0.2%, the Panel was concerned about how the management of the Fund could be improved for achieving better investment return. Some members suggested that the Hong Kong Monetary Authority (HKMA) should review the benchmark portfolio with a view to allowing more flexibility in undertaking investment activities without undermining the investment objectives, such as preservation of capital and backing of the Hong Kong-dollar Monetary Base. The Panel was advised by the Chief Executive of the HKMA that a more aggressive benchmark portfolio would probably involve higher risks and lower liquidity.

The Panel also exchanged views with the Governance Sub-Committee (GSC) of the Exchange Fund Advisory Committee on the governance issues of the HKMA. Some members put forward various suggestions for improving the existing regulatory framework and funding mechanism, and enhancing the transparency of the HKMA by disclosure of further details about its annual budget. The Panel noted the GSC's view that the existing regulatory framework and funding mechanism should be retained. The GSC however agreed that transparency should be improved wherever possible without affecting the proper and efficient operations of the HKMA. It also agreed to keep the arrangements for disclosure of the HKMA's budget and other issues related to transparency under continued review.

The Panel noted that the GSC was reviewing the post-termination employment rules applicable to HKMA staff, and that the Securities and Futures Commission (SFC) was also reviewing the arrangements in respect of post-termination employment of its Executive Directors. Members suggested that reference be made to the improvement measures introduced by the Administration in January 2006 to tighten control on post-service employment of directorate civil servants so as to forestall real or potential conflict of interest.

The GSC and the SFC undertook to consider members' suggestion and report the outcome of the review to the Panel in due course.

For the purpose of enhancing investor protection, the Panel examined a number of issues, including the regulation of market misconduct, regulation of trading of derivative warrants, regulation of Real Estate Investment Trusts, and regulation of securities margin financing. To address risks arising from securities margin financing, the Panel was of the view that as a matter of principle, securities margin finance providers should not be allowed to repledge the collateral of non-borrowing margin clients, and that the SFC should work out a concrete timetable for achieving complete segregation of borrowing and non-borrowing margin clients' collateral so as to enhance investor protection and enable Hong Kong's regulatory system to meet international standards. Given the need for the SFC to study the cost implications of complete segregation, a great majority of members of the Panel urged that the proposal of imposing a repledging limit be implemented as soon as possible as a first step to enhance investor protection.

In view of the closure of a number of bank branches in recent years, the Panel also examined the impact of branch closure on the public with the Hong Kong Association of Banks (HKAB), the Consumer Council and the Administration. Whilst appreciating that it was the commercial decision of individual banks to decide on the number and location of their branches, members stressed that banks had the corporate social responsibility to ensure that the basic need of the public for banking services was catered for. As reduction in bank branches had caused great inconvenience to members of the public, in particular the elderly and the disabled, the Panel urged the HKAB to work in collaboration with the Administration and other parties concerned to address the need of the public, in particular the less privileged groups, for banking services.

Madam President, I would like to take this opportunity to record my thanks to members of the Panel for their support to the work of the Panel.

Thank you.

PRESIDENT (in Cantonese): Dr YEUNG Sum will address the Council on the Report of the Panel on Education 2005/2006.

Report of the Panel on Education 2005/2006

DR YEUNG SUM (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Education, I present a report to the Legislative Council on the work of the Panel in the 2005-06 Session.

The Administration published the Consultation Document entitled "Action for the Future — Further Consultation on Career-oriented Studies and the New Senior Secondary Academic Structure for Special Schools" in January 2006. Members were supportive of the provision of three-year junior secondary and three-year senior secondary education for students with special educational needs. However, members noted that students who were physically disabled or hearing impaired would be provided with 10 years of basic education, while students with intellectual disability would be provided with only nine years of basic education. Members queried why students with different disabilities would be given different treatment.

With regard to the Administration's proposals to implement the restructuring of secondary school classes in the 2007-08 academic year, members expressed grave concern about the proposal of operating no less than three classes per level in all the schools. Members were of the view that the proposal would lead to the closure of a great number of secondary schools, that is, the emergence of the phenomenon of "killing schools". Members considered that to address the problem of declining student population, small-class teaching should be implemented. Members urged the Administration to withdraw the proposals of restructuring secondary school classes and discuss further with the school sector in order to reach a consensus.

Following the completion of the Phase I review of the post-secondary education sector, the Panel discussed the findings of the review with the Administration. Members were concerned that the current provision of 840 articulation places in the second year and the third year of undergraduate programmes in UGC-funded institutions could hardly satisfy the need of sub-degree holders to pursue university education. They called on the Administration to increase the provision of first-year-first-degree places in UGC-funded institutions.

Members supported the provision of integrated education for non-Chinese speaking (NCS) students. As there were only seven primary schools and three

secondary schools which traditionally admitted a large number of NCS students, members were concerned about the long travelling time for ethnic minority children to attend schools. Members considered it necessary to have more selected or voluntary schools in each of the five electoral constituencies for enrolment of NCS students.

Besides, the Panel requested the Education and Manpower Bureau to provide in schools an alternative curriculum in Chinese Language suitable for the learning abilities of NCS students, so that they would not face unfair treatment when they pursue further education or when they seek employment in future. Regarding members' requests concerning schools issues, the Administration said that they would choose one or two mainstream schools with good foundation of supporting NCS students in each of the five electoral constituencies to offer better support to NCS students through centralizing their specialties and proper use of resources.

The Panel discussed the Kindergarten Fee Remission Scheme with the Administration. Since parents have to pass the social needs test for entitlement to full-day fee remission under the Kindergarten and Child Care Centre Fee Remission Scheme, members were concerned about the requirement. Members worried about the impact of such a requirement on low-income families. Members called on the Administration to remove the social needs test.

The Administration said that as a comprehensive review of pre-primary education was underway, it would be more appropriate to consider the removal of the social needs test in the context of the review, and hence it was not suitable to make a decision at the present stage. The Panel expressed dissatisfaction at the response of the Administration and was studying how the issue should be followed up.

Finally, I would like to take this opportunity to thank members' support for the work of the Panel during the past year, and on behalf of the Panel, I wish to thank members of the Secretariat staff for their hard work.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr LAU Wong-fat will address the Council on the Report of the Planning, Lands and Works 2005/2006.

Report of the Panel on Planning, Lands and Works 2005/2006

MR LAU WONG-FAT (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Housing, I present a report to this Council on the work of the Panel in the 2005-06 Session and briefly highlight several major items of work of the Panel.

During this Session, the Panel had held discussions on several planning projects. Among these projects, with regard to the land-use planning of the new reclamation in Central, some members considered that the extent of new developments along the Central waterfront was excessive, giving rise to adverse environmental and traffic impacts. Therefore, they asked the Administration to critically review the land-use planning for the Central waterfront in consultation with the public.

The Administration explained that the relevant Outline Zoning Plan had already gone the consideration of public views and objections by the Town Planning Board before it was subsequently approved by the Chief Executive in Council in 2000. However, the Planning Department will conduct an urban design study for the Central waterfront and it will formulate a planning design brief as well as detailed development guidance. The public will have the opportunity to participate fully in the relevant processes.

In view of the wide public concern over the Tamar development project as well as the planning for the Central waterfront, the Panel set up a subcommittee in January 2006 to review the relevant planning issues. The Panel and the Subcommittee had held several meetings between November 2005 and May 2006 to discuss the various issues related to the Tamar development project in detail with the Administration and deputations.

With regard to the Wan Chai Development Phase II Review, the Panel noted that a sub-committee under the Harbour-front Enhancement Committee appointed a transport expert panel to review and make recommendations on the transport planning for the northern shore of Hong Kong Island. The transport expert panel supported the construction of the Central-Wanchai Bypass and the provision of two sets of planned slip roads. The Government's consultants had also conducted analyses and made recommendations on the various alignment options and construction schemes for the Central-Wanchai Bypass.

Members urged the Administration to undertake thorough studies with a view to minimizing harbour reclamation and other undesirable impacts, before deciding on an alignment and construction form for the Bypass. In the meantime, the Administration should adopt traffic management and land-use planning measures to solve thoroughly the traffic congestion problems in the area of Central and Wan Chai. As regards harbourfront enhancement measures, there was a general consensus among members and deputations on the need to devote adequate resources and maximize the opportunities to implement harbourfront enhancement measures to meet public aspirations.

The Panel also conducted discussions on the Preliminary Outline Development Plan for Kai Tak and raised concerns, including the density and height of developments, the environmental problems of the Kai Tak Approach Channel, the locations and scale of the proposed Metro Park and Stadium Complex, and so on. Members also gave suggestions to improve the connectivity between Kai Tak and the neighbouring districts so as to liven up the whole Southeast Kowloon.

A joint meeting of this Panel and the Panel on Environmental Affairs was held to discuss with the Administration and deputations the outcome of the public consultation exercise on the Concept Plan for Lantau. Members are generally of the opinion that the Administration should give due attention to the possible impacts on the ecology of the local areas and should ensure compliance with sustainability principles. The Administration should also give due attention to preserving the local character and meeting the needs of the residents.

With regard to the development and implementation of Greening Master Plans (GMPs), members generally welcomed the initiatives. To enhance greening efforts, members made various suggestions to improve the planning and implementation of GMPs, such as the adoption of different greening themes for different districts to project local characteristics, the provision and identification of more planting space at public facilities and the promotion of greening features in private developments.

The Panel had reviewed with the Administration the existing policy on lease modification to permit change of use for sites granted by private treaty (PTG). The Administration considered that permitting PTG grantees to modify their leases after payment of the full market premium was a practical and flexible

practice, thus allowing obsolete or under-utilized PTG sites to be put to optimal use to meet the rapidly changing social and economic demands.

However, many members pointed out that, under the current arrangement, the PTG grantee was given an exclusive right to obtain a re-grant of the site for alternative uses. Besides, since the premium to be paid by the grantee was determined internally by the Lands Department, the mechanism lacked transparency. Members urged the Administration to devise an open and fair mechanism to enable obsolete and under-utilized PTG sites to be put to optimal use, such as taking back the PTG sites for open sale by auction or tender.

The Panel had deliberated other issues such as the review of small house policy; the review of land supply and land sale arrangements; the proposal of commissioning a consultancy study to examine the idea of private certification; the proposal of prescribing fees for planning applications in the Town Planning Ordinance and a legislative proposal for facilitating private redevelopment efforts. As all the relevant details are already included in the report, I shall not go into the details now.

Madam President, I so submit.

PRESIDENT (in Cantonese): Dr Fernando CHEUNG will address the Council on the Report of the Panel on Welfare Services 2005/2006.

Report of the Panel on Welfare Services 2005/2006

DR FERNANDO CHEUNG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Welfare Services, I present a report to the Legislative Council on the work of the Panel in the 2005-06 Session and highlight the work of the Panel in several major areas.

Members were very concerned that some management of non-governmental organizations (NGOs) unilaterally changed or planned to unilaterally change the terms and conditions of services of their staff in order to attain financial viability. Members asked the Administration whether a mechanism was in place to ensure that NGOs on lump sum grant would honour

the employment contract with staff, and would not dismiss staff for refusing to enter into an employment contract unilaterally introduced by the management.

Members were of the view that grievances concerning the Special One-off Grant were rooted in the implementation of the lump sum grant subvention system. They urged the Administration to conduct a comprehensive review of the system.

The Panel held three meetings to discuss with the Administration services for victims of sexual violence, and funding for Rainlily.

Members considered it unreasonable to allow Rainlily to stop its one-stop service to victims of sex violence due to lack of funding, in particular if the sum involved was only \$2.2 million a year. The Panel passed a motion urging the Administration to immediately fund Rainlily until the review of the existing services to victims of sexual violence was completed.

At the special meeting on 3 July, the Administration briefed the Panel on the proposed new service mode. Members were very dissatisfied that the Administration made a decision and invited organizations to express their interest in operating the new centre before any consultation with the Panel and the service providers concerned.

Members passed a motion to urge the Administration to consult all stakeholders and the Panel before making any decision, so as to seek the most suitable model for providing services to victims of sexual violence. On behalf of the Panel, I have written to the Secretary for Health, Welfare and Food, asking him to follow up and give a reply to this request of the Panel.

The Panel held a joint meeting with the Panel on Health Services and the Panel on Manpower to discuss the support provided by the Government to patients of Severe Acute Respiratory Syndrome (SARS) and their families. In my capacity as the Chairman of the Panel, I moved a motion for debate at the Council meeting on 17 May 2006 urging the Administration to:

- (a) relax the Trust Fund's \$500,000 ceiling on special *ex gratia* financial assistance for each eligible recovered or "suspected" SARS patient;

- (b) extend the scope of the Trust Fund to cover also families of the deceased "suspected" SARS patients;
- (c) grant special *ex gratia* relief payments to families with deceased elderly SARS patients irrespective of whether the affected families had been relying on the deceased for financial support; and
- (d) inject additional funds into the Trust Fund.

The motion was carried.

A motion urging the Administration to expeditiously conduct a study on establishing a sustainable old age pension scheme to provide all elders with immediate payments to meet their basic and special needs arising from old age was passed by the Panel.

The Subcommittee on Strategy and Measures to Tackle Family Violence formed under the Panel had discussed issues including the recommendations of the Coroner's Court on the Tin Shui Wai family tragedy which occurred in April 2004; review report on the implementation of recommendations of the Review Panel on Family Services in Tin Shui Wai; improvement measures of the police on the handling of family violence; and the preliminary proposed amendments to the Domestic Violence Ordinance (Cap. 189).

The Subcommittee on Review of the Comprehensive Social Security Assistance Scheme, which was formed under the Panel, had discussed issues including the New Dawn Project for single-parent recipients of Comprehensive Social Security Assistance (CSSA); annual adjustment mechanism of the CSSA standard payment rates; basic needs of the elderly, the disabled and children; provision of long-term supplement and burial grant; release of CSSA to discharged offenders; and difficulties faced by the poor elderly in applying for CSSA.

Madam President, as Chairman of the Panel, I wish to thank in particular members of the subcommittees, our colleagues, and staff of the Secretariat. During the past year, we had held particularly more meetings and expressed

concern over particularly more issues relating to the socially disadvantaged. Here, I wish to express my gratitude to them.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr SIN Chung-kai will address the Council on the Report of the Panel on Information Technology and Broadcasting 2005/2006.

Report of the Panel on Information Technology and Broadcasting 2005/2006

MR SIN CHUNG-KAI (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Information Technology and Broadcasting, I now submit the Report of the Panel in this Session and briefly highlight some major issues examined by the Panel.

As there is no clear policy on public service broadcasting (PSB) in Hong Kong, the Panel welcomed the Government's initiative to conduct a review of PSB. In anticipation of important changes which PSB would undergo in the near future, the Panel is currently conducting a study into the subject. Apart from listening to the views of all sides and concern groups, the Panel conducted an overseas duty visit in April 2006 to Canada, the United States and the United Kingdom to study the development of their PSB systems. The Panel aims to publish a report by October 2006 to put forward recommendations on the way forward for PSB in Hong Kong.

There was the view that Radio Television Hong Kong's (RTHK) status as a government department was not conducive to its role as a public service broadcaster. The Panel had discussed with the Administration and received representations from the RTHK Programme Staff Union on the proposal to re-examine the corporatization of RTHK. Members also discussed the cost-effectiveness of RTHK's operations and the possibility of releasing RTHK's surplus channel capacity for other organizations and community groups to produce and host their programmes. The Panel would continue to follow up the relevant issues in the course of the review on PSB.

With regard to the leakage on the Internet of personal information held by the Independent Police Complaints Council and some private organizations, the Panel urged various regulators and public bodies to ensure effective operation of their IT security systems. The Administration would report on the progress of related issues to the Panel at the end of 2006.

The Panel had discussed the Administration's proposal of a merger of the Broadcasting Authority and the Telecommunications Authority into a unified regulator known as the Communications Authority (CA). Members generally supported a shift from active regulation to a more relaxed approach with emphasis on fair competition in line with international trend, but urged the new CA to uphold its public mission, which includes protection of freedom of expression and consumers' interests.

On the Cyberport project, the Panel noted that only 45% of the companies which had taken up tenancy in the Cyberport were new to Hong Kong. The Panel urged the Administration to provide information on the concessionary terms offered to tenants, including the duration of rent-free period. The Panel would continue to monitor the return on the Government's investment in the Cyberport project.

The other areas of work of the Panel in this Session are set out in the written report. I wish to take this opportunity to thank the Secretariat for its services to the Panel. I so submit.

PRESIDENT (in Cantonese): Mr James TIEN will address the Council on the Report of the Panel on Economic Services 2005/2006.

Report of the Panel on Economic Services 2005/2006

MR JAMES TIEN: Madam President, as Chairman of the Panel on Economic Services (the Panel), I would like to report on the major work of the Panel during the 2005-06 Legislative Session. As the Report has already given a detailed account of our work, I would only highlight a few points here.

On tourism, during the Session, we continued to keep the major tourism infrastructure projects under periodic review. The Hong Kong Disneyland and

the Hong Kong Wetland Park had been opened for public use in September last year and May this year respectively.

On the operation of the Hong Kong Disneyland, we were gravely concerned about the incidents which happened during the Chinese New Year holidays when some ticket holders were refused entry upon arrival at the park. We urged the Administration to look into the matter and take necessary remedial actions to improve the ticketing arrangements as well as the entry and crowd management strategies.

We were also concerned about the operation and conservation of the Hong Kong Wetland Park which was the first major green tourism facility in Hong Kong. We considered it necessary for the Administration to step up publicity for educating the public on rules to conserve the environment in the Wetland Park.

The Ngong Ping Skyrail was another major tourist destination, which was scheduled for opening this year. We noted with grave concern about the deferred opening of the Ngong Ping Skyrail due to an operational failure which occurred during the trial operations in June 2006. We had already requested the Administration to look into the matter and report back to the Panel later this month.

On port and logistics services, during the Session, we were briefed on the latest development of the Digital Trade and Transportation Network System which aimed at providing a neutral and open e-platform for logistics players in the supply chain to exchange data. In the face of competition from nearby regions, we considered it necessary for the Administration to make every effort to improve efficiency and provide speedy, reliable and value-added logistics services so as to maintain Hong Kong's position as an international hub.

On airport and aviation services, we had reviewed with the Administration and various stakeholders the planning and implementation of domestic and cross-boundary heliport facilities in Hong Kong. We also took the opportunity to request the Administration to expedite the review for the replacement of the existing air traffic control management system in the Hong Kong International Airport, and to ensure timely provision of new air cargo terminal facilities to cope with the increasing demand for movement of air cargo.

On electricity market and tariff, in December last year, we were briefed on the annual tariff revision plans by the two power companies. We noted that under the existing Scheme of Control Agreements (SCAs) signed between the Government and the two power companies, the Government could not unilaterally ask the power companies to withhold increasing electricity tariffs so as to relieve the burden of the general public and the business community. We found this arrangement undesirable. We also considered the existing permitted rate of return too high, leading to high electricity tariffs. We requested the Administration to refine the arrangement for the future development of the electricity market upon the expiry of the current SCAs in 2008 so as to safeguard public interest.

On gas safety, following the gas explosion incident at Ngau Tau Kok in April this year, we discussed with the Administration and the gas company the root causes of the incident. We called on the Administration and the gas company to enhance the reliability of leakage surveys of existing pipelines, and accelerate the replacement programme for existing pipelines to ensure public safety.

On competition, we had reviewed the competition policy and examined ways to enhance competition in the local auto-fuel market. We would keep in view the need for introducing a comprehensive and cross-sector law on fair competition so as to enhance economic efficiency and free trade, thereby also benefiting consumer welfare.

Finally, I would like to take this opportunity to thank members and Clerk of the Panel and his colleagues for their support for the work of the Panel over the past year.

Thank you, Madam President.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki will address the Council on the Report of the Panel on Health Services 2005/2006.

Report of the Panel on Health Services 2005/2006

DR KWOK KA-KI (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Health Services, I now present to the Legislative

Council the report on the work of the Panel in the 2005-06 Session and highlight the work of the Panel in several major areas.

The Administration briefed the Panel on the developments of the notification mechanisms in respect of human and animal/plant infectious diseases between the Mainland and Hong Kong in early 2006.

Some members suggested that the Administration should request the Mainland to notify Hong Kong of all suspected cases to ensure that timely response could be formulated to prevent any onslaught of infectious diseases in Hong Kong from across the border. The Administration agreed to explore the possibility of the suggestion with the mainland authorities concerned but pointed out that there would be a need to define "suspected cases" and to consider whether such indiscriminate reporting would create unnecessary alarm.

On 13 June 2006, the Centre for Health Protection (CHP) received notification from the Ministry of Health of a suspected human avian influenza (H5N1) case in Shenzhen. On 15 June 2006, following completion of further laboratory testing, the Ministry of Health notified the CHP that the case was a confirmed H5N1 infection. Members considered the arrangement made in this case a significant progress.

In view of an increasing number of complaints about the practices of health maintenance organizations, the Panel held two meetings in the first quarter of 2006 to listen to the views of the trade, the medical and dental professional associations, the Consumer Council and a patients rights' group on the subject.

The Administration considered that the provision of medical services, through any organizations or business operators, was primarily a professional relationship between medical practitioners and their patients. Hence, the mainstay of regulation should be on regulating the professional practice of individual doctors. In this regard, the Medical Council of Hong Kong had put in place an effective mechanism to look into and adjudicate in cases of derelict of professional responsibilities.

Members were of the view that the existing regulatory regime relying on the Medical Council of Hong Kong to ensure the quality of medical services

provided by health maintenance organizations was far from adequate, as the Medical Council could only regulate doctors on an individual basis. Members expressed concern that patients' health and interests might risk being compromised by the drive for profit by health maintenance organizations and that the professional autonomy of doctors and dentists working for health maintenance organizations might also risk being compromised by business and financial considerations of these organizations.

Some members pointed out that similar to the arrangements for lawyers and accountants, legislation should be enacted to require that the shareholders of a body corporate providing medical services must be doctors. To ensure that a right balance was struck between safeguarding patients' health and interests and not stifling the development of managed health care in Hong Kong, the Administration should meet with the trade, the relevant professional associations, patients' groups and other stakeholders concerned to understand their views and concerns.

The Panel requested the Administration to provide a written response in three months' time on the measures the Administration would take to regulate health maintenance organizations. The Panel also held a meeting on 10 July to discuss the way forward in the regulation of health maintenance organizations.

In the wake of a number of incidents involving allegations of wrong dispensation of medicine in residential care homes for the elderly, the Panel held a special meeting to discuss the handling of drugs in elderly homes. Twelve deputations attended the meeting to give their views on the issue.

In view of the seriousness of the matter, the Administration was requested to provide the Panel with a timetable for expeditiously improving drug management in elderly homes together with a report detailing the improvement measures to be taken, so that the matter could be followed up jointly by this Panel and the Panel on Welfare Services.

Here, I wish to thank in particular all members of the Panel and colleagues of the Secretariat for their hard work over the past year, because the Panel had held five special meetings and in addition to a huge volume of work arising from the Smoking (Public Health) (Amendment) Bill 2005, the Secretariat also has to

prepare for an overseas visit in summer later this year. The Panel would like to express gratitude for their professionalism. I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): Miss CHOY So-yuk will address the Council on the Report of the Panel on Environmental Affairs 2005/2006.

Report of the Panel on Environmental Affairs 2005/2006

MISS CHOY SO-YUK: Madam President, as Chairman of the Panel on Environmental Affairs (the Panel), I wish to report on the major work of the Panel during the 2005-06 Legislative Council Session.

The deteriorating air quality, both in indoor and outdoor environment, has all along been a major concern of the Panel. Outdoor air quality is affected by local and regional air pollution. Local air pollution is mainly attributed to emissions from vehicles and power plants, the latter of which account for 92% of the total emission of sulphur dioxide and half of that of nitrogen oxides and respirable suspended particulates. The increased use of coal for power generation in recent years has further aggravated the problem. To reduce emissions from power plants, members welcome the Administration's proposal to link the emission performance of power companies with the permitted rate of return. They however consider that more should be done to develop renewable energy and to promote energy conservation. To acquire first-hand information on overseas experience in tackling air pollution and applying renewable energy, the Panel will conduct an overseas duty visit to Japan, Denmark and Finland in August 2006.

On waste management, the Panel welcomes the release of the Policy Framework for the Management of Municipal Solid Waste which sets out a comprehensive strategy on waste avoidance, re-use, recycling, recovery, bulk reduction and disposal of unavoidable waste. The Panel however points out that the target of reducing the annual generation of municipal solid waste by 1% up to the year 2014 is too conservative. While supporting the concept of producer responsibility schemes to share responsibility along the chain of production, distribution, consumption, collection, recycling, treatment and disposal of

products, members have serious reservation on the proposed umbrella legislative approach, that is, an enabling legislation with detailed regulatory requirements to be introduced through subsidiary legislation, which in their view is like signing a blank cheque. On the other hand, the enabling legislation will be seen as lip-service in the absence of regulatory control. Members therefore urge the Administration to submit at least one regulation together with the principal legislation to facilitate understanding of the proposed control regime. To allow sufficient time for scrutiny, consideration should also be given to using a positive vetting procedure for the regulations.

Similar to many metropolitan cities, road traffic noise has become a severe environmental problem which distracts from the quality of life. In this connection, the Research and Library Services Division has completed a study on the present policy and mechanism in determining the need for mitigation measures with reference to overseas places facing similar problem as Hong Kong. The Administration on the other hand has released a draft plan which sets out the proposed enhanced measures it would consider in tackling road traffic noise. While welcoming the draft plan, members note that many of the proposed measures involve studies which may take a longer time. As an imminent measure, members urge the Administration to consult and consider providing incentives to the transport trade with a view to encouraging heavy vehicles not to enter residential areas or use diverted routes at night if such diversions would not result in transferring the noise nuisance to residents along the diverted routes. Given that prevention of noise problem at the outset of land use planning and project design planning is the most effective noise abatement measure, members suggest that consideration should be given to rejecting proposals of residential developments on sites where the surrounding traffic noise levels have already exceeded the limit. The noise levels which the developments will be exposed to should be incorporated in the sales brochures so that prospective buyers can make an informed decision. This will also encourage developers to adopt more effective noise mitigation measures. In view of the far-reaching implications of excessive traffic noise problem, the Administration is requested to report the progress of the enhanced measures to the Panel towards the end of 2006.

Madam President, the Panel has also examined other issues, such as nature conservation, the draft Hong Kong Implementation Plan under the Stockholm Convention on Persistent Organic Pollutants as well as related financial and legislative proposals. For details of these areas of work of the Panel, Members

may wish to refer to the report. Madam President, I would like to express my sincere gratitude to Panel members and the Secretariat for their unfailing support over the past year. Thank you.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Wild or Abandoned Cows

1. **MR KWONG CHI-KIN** (in Cantonese): *President, will the Government inform this Council:*

- (a) *of the respective current numbers of wild or abandoned cows in the rural area, with a breakdown by their species and distribution;*
- (b) *whether the authorities have taken measures, other than catching and killing, to preserve such cows and separate them from people for harmonious human-bovine coexistence; if so, of the details of such measures; if not, whether they will draw up such measures; and*
- (c) *of the number of organizations or individuals currently providing accommodation and care to such cows; in the past three years, the assistance provided to these organizations or individuals by the authorities and the number of applications received for short-term lease of Government land to accommodate and take care of such cows; and the location and area of the land involved in each application, as well as the application results; whether the relevant government departments have looked for land to preserve and care for such cows?*

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

- (a) The Agriculture, Fisheries and Conservation Department (AFCD) estimated that there were around 1 100 stray cattle and buffalos

without owners in the rural areas in 2005, distributed in districts such as South Lantau Island, Sai Kung, Tsuen Wan/Tai Po/Tung Chung, New Territories West and North District. The distribution of buffalos and brown cattle are listed in the Table.

	<i>South Lantau Island</i>	<i>Sai Kung</i>	<i>Tsuen Wan/ Tai Po/ Tung Chung</i>	<i>New Territories West and North District</i>	<i>Total</i>
Buffalos	100	0	0	50	150
Brown Cattle	130	180	250	350	910
Total	230	180	250	400	1 060

- (b) As stray cattle and buffalos do not have any conservation value, the Government would not allocate resources to keep the cattle and buffalos under its conservation policy. Besides, the Government also controls the number of stray cattle and buffalos with methods such as catching in order to reduce disturbance of stray cattle and buffalos to the public.
- (c) At present, there is only one voluntary organization which rears cattle and buffalos, with approximately 60 cattle and buffalos.

Although stray cattle and buffalos do not have any conservation value, if a voluntary organization has adequate land and would like to keep and care for cattle on its own initiative, the Government would not raise any objection.

If the organization concerned plans to lease suitable vacant government land to keep and care for cattle that do not have owners, they may submit an application to the District Lands Office concerned. The Director of Lands would process the applications in accordance with the land grant policy and proper procedures.

Since 2001, the Lands Department has processed applications from two organizations that have applied to lease government land for the above-mentioned purpose. Many of the sites under application were Government land at the New Territories and Lantau Island. But none of it was granted in the end because of environmental hygiene or pollution reasons, views of local community, rejection

by departments as unsuitable or withdrawal by the applicants on their initiative. At present, an organization plans to lease a piece of the Government land at Nam Sang Wai, Yuen Long, which has an area of about 34 000 sq m for the above purpose. The Government is now solving issues related to zoning.

MR KWONG CHI-KIN (in Cantonese): *President, the Secretary stated in the main reply that the Government controls the number of stray cattle and buffalos with methods such as catching, but he did not mention how these animals are dealt with after they have been caught. The general practice is putting them down by euthanasia. May I ask the Secretary whether the Government can learn from non-government organizations' approach, for instance, of controlling the number of stray cats and dogs, which is performing castration surgery on them after they have been caught and set them free afterward?. Will the Government consider this approach, for this is a better approach than putting them down by euthanasia?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, at present, if cattle and buffalos are caught, they will not be put down by euthanasia immediately. According to the existing legislation, they shall be detained for about seven days and the public will be notified by way of notice in the Gazette to see if their owners, if any, will come forth to claim them. If no one comes forth to claim them within three days, we will gazette another notice. Only if there is still no one comes forth to claim them after seven days, will we sell them or put them down naturally by euthanasia. In most cases, however, someone will come forth to claim them.

In the past many years, about 300 cattle and buffalos were sold, about 250 cattle and buffalos were put down naturally by euthanasia; and in the past four years, seven cattle and buffalos were claimed back by their owners. There are, thus, all kinds of ways of handling them.

Mr KWONG mentioned performing castration surgery on cattle and buffalos. In fact, the AFCD did try applying some drugs on them, but the use of hormonal contraceptive vaccine is only effective on small animals, but not very effective on cattle and buffalos. Moreover, if any castration surgery is to be performed, it is much easier to do so on small animals, and is much more

difficult to put animals as large as cattle or buffalos, such as a cow, under general anaesthesia and the mortality of putting a cow under general anaesthesia, as I have been given to understand, is rather high. On the other hand, for the castration of bulls, it will not bring about substantial results if only a small number of the bulls are castrated. It has to be performed on at least 80% of the bulls to achieve substantial results.

In the past few years, the number of stray cattle and buffalos has been on the decrease. In 2004, there were about 1 322 stray cattle and buffalos, which have now dropped to about 1 000. As the number is decreasing, we hold that there is no need to adopt drastic measures to deal with them.

MR ALERT HO (in Cantonese): *It was stated in the main reply that these cattle and buffalos do not have any conservation value, but I wonder if they have any education value in terms of humanity. As we all know, these cattle and buffalos do not constitute any significant impact on the safety of the general public, there is, thus, no need to destroy them. I wish to ask the Secretary: Today, we claim Hong Kong as an advanced society, is the Secretary telling us there is no way of handling the cattle and buffalos, or of castrating them, and he would rather putting the 200-odd cattle and buffalos down by euthanasia after catching them? Should such thing happen in society as civilized as ours?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I have to state clearly that stray cattle and buffalos can be healthy or unhealthy. If they are healthy, we certainly hope to put them on sale and see if anyone wants to buy them. If, however, they are unhealthy and old, putting them down by euthanasia would sometimes be a better approach. At present, we would not catch or kill every cattle or buffalo when we saw one. We would consider if these animals have affected or disturbed people in the rural areas. Sometimes, these cattle or buffalos might intrude into the garden of a citizen and destroy his or her crops or plants. Moreover, tourists might complain about these animals blocking the traffic. Only under such circumstances will we take actions. Hence, under our present practice, it does not mean that we have to catch and kill immediately the existing 1 000-old cattle and buffalos.

MR LEUNG YIU-CHUNG (in Cantonese): *President, although the Secretary mentioned that there is a downward trend in the number of stray cattle and buffalos, there is still more than 1 000 of them, which is not a small number. May I ask the Secretary whether he is now adopting an attitude of "doing nothing that goes against nature"? In other words, does he intend to let the stray cattle and buffalos fend for themselves? When voluntary organizations wish to take proper care of and conserve them, the Government has neither provided funding for them to find suitable places for rearing these cattle and buffalos, nor has it provided funding and assistance to them in conducting such work. As to castration, the Secretary has also refused to adopt this approach for the reason that it is not very effective. In fact, does the Secretary plan to let the cattle and buffalos wander around in such an environment? Does the Government consider the present attitude acceptable?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as the number of stray cattle and buffalos at present is under control, we hold that there is no need to make any policy change on their survival or immediate extermination. If any voluntary organization is willing to rear these animals in a humane way, we will provide assistance in terms of land allocation. However, on the resources front, as they are not species under conservation, we will not change the present policy to allocate resources in this respect.

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

MR LEUNG YIU-CHUNG (in Cantonese): *No. I wish to ask what the present policy is, and whether the Government wishes to let the cattle and buffalos wander around without doing more proactive work?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as there are still considerable hilly areas in Hong Kong for these cattle and buffalos to live without causing any disturbance to the public, our present policy allows their continued existence. With regard to survival, the survival of any animal depends on whether it has the conditions to survive. If

they can continue to survive and breed, we will let them do so. However, if they cause any disturbance to homes of the public, or to villagers or tourists by blocking the traffic, or putting tourists in danger, we will take actions. This is our present policy.

MR WONG KWOK-HING (in Cantonese): *I heard with great regret that the Secretary stated in part (b) of the main reply that stray cattle and buffalos do not have any conservation value and that the method of catching is adopted. A research project conducted recently by the World Wide Fund For Nature Hong Kong (WWF Hong Kong) had placed at Maipo a five-year-old female calf to munch grass and tread loose ponds to create puddles. Numerous Cattle Egrets were attracted there as a result and the wildlife diversity has increased. Thus, cattle and buffaloes can create considerable value if they are properly preserved. In the Mainland, many farms are established to attract public visits and for educational purposes. May I ask the Secretary through the President whether the Government will adopt a proactive attitude towards providing an opportunity for and establishing a policy on the conservation of stray cattle and buffalos? This does have a positive meaning on tourism and the natural environment. I hope the Secretary can respond to the question of whether the Government can adopt a proactive attitude to consider this issue.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, insofar as I am aware, the WWF Hong Kong is not prepared to rear all of the 1 000-odd cattle and buffalos, but only four at most. If these cattle and buffalos are not useful to them, we are not in a position to encourage them to rear so many of them. We, thus, have to take into account the existing environment of Hong Kong, and see whether it is appropriate to conserve these animals which do not have any conservation value. The Government will not, at present, get rid of these stray cattle and buffalos actively; neither will it actively conserve them except letting them continue to live on.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered my supplementary question. Although the Secretary mentioned just now that the WWF Hong Kong will only rear four buffaloes, but my question to the Government is whether it will consider adopting a conservation method, which can incorporate functions of tourism and humanity education, so that the*

cattle and buffalos can also play a part? The Secretary has not answered this part of my supplement question.

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): As to tourism, I have also said just now that some hikers find stray cattle and buffalos a disturbance to them, while some people travel all the way to see how beautiful these animals are. Both of these views exist. Thus, we hold that we should adopt a more natural approach so as to accommodate different views and allow people to engage in activities they like. Yet, if the Government is required to hammer out a specific policy on this, we hold that these cattle and buffalos, at present, do not have any conservation value.

MISS CHOY SO-YUK (in Cantonese): *President, I wish to declare an interest, because I have been actively taking part in helping that voluntary organization to find a site. The Secretary mentioned in the last part of the main reply Nam Sang Wai. In fact, the relevant department has already consulted all organizations concerned on issues including environmental hygiene and pollution mentioned by the Secretary. They have no objection to the matter. However, the matter has been dragging on for half a year, and nothing has been done by the Planning Department. The Bureau has not done any work. It has not done anything actively at all. May I ask the Secretary, in relation to the Nam Sang Wai case, whether the Bureau will provide active assistance to the voluntary organization, so that the latter can provide a safe refuge for these stray cattle and buffalos?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, our position, just as I have stated in the main reply, is very clear. If any organization is prepared to keep these cattle and buffalos, we would allow them to do so by submitting applications for lease of land. As to the granting of land, it is decided by the Lands Department (LandsD). I believe the problem now lies with the LandsD. I will relay the suggestion made by the Honourable Member just now to the LandsD for their earliest consideration.

MISS TAM HEUNG-MAN (in Cantonese): *The Secretary has mentioned several times just now and also in the main reply that stray cattle and buffalos are causing disturbance to the public. I wish to know more about the extent of disturbance created. In the past three years, have the authorities received reports or complaints from the public of injuries or financial losses caused by stray cattle and buffalos? If the authorities have such data, can they inform us of the details and of the follow-up actions taken?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in 2003, 2004 and 2005, we received 91, 121 and 110 complaints respectively; and from January to June 2006, we have received 75 complaints. Upon receipt of a complaint, the AFCD will first conduct an investigation and follow-up to ascertain whether the cattle or buffalos have really caused disturbance to the village households or their crops, or have blocked the traffic of the places concerned; or whether tourists were disturbed by them to the extent that they could not barbecue in the barbecue site. Under such circumstances, we will set out to catch them. Before catching the cattle or buffalos, we generally will shoot an anaesthetic injection into the animals and proceed to catch them after they have lost consciousness. The animals will then be brought back to and retained in the AFCD to see if anyone will come to claim them back. If not, they will be auctioned or put down by euthanasia.

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

MR ALERT HO (in Cantonese): *President, the Secretary has said several times just now that because these gentle cattle and buffalos blocked the traffic or caused disturbance to the public, the Government had to catch them under its policy. If no one came forth to claim or buy them, they would be killed. I do not know what message such a reply will convey to our next generation. If the reply is for public education, by saying so, how could we educate the next generation to love nature, care for animals and not to abuse them? We may well know that these cattle and buffalos will eventually disappear. All we wish now is to adopt some humane policies to let them disappear naturally, such as by providing a little support to charitable organizations or kind hearted people to care for cattle and buffalos to let these animals live to the end of their lives. Is*

the Government not even capable of doing this? Does the conservation policy of the Government only consider cost-effectiveness with no regard to the values of education on humanity, on how to treasure life, and love and care for animals? Does the Government agree that its policy is indifferent and inhumane?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): I am sure Mr Albert HO has his personal views and opinions. Firstly, animals may not necessarily wish to be detained in a place to the end of their senility. Many animals want to live freely in a natural environment. Should we catch all cattle and buffalos, and keep and rear them in one place? We believe this is a big issue. Meanwhile, in nature, cattle and buffalos live in herds. There may be a problem if we force them to live with other cattle and buffalos. For instance, buffalos and brown cattle do not like to live together. Do we have to foster such a situation to happen? To any primary school student or member of the public, we should project a clear conservation message and set of values to them. If some animals do not have any conservation value, we will let them live on comfortably in a permissible environment, while at the same time we have to preserve the city environment of Hong Kong so that people can live in peace and work in contentment.

MR ALERT HO (in Cantonese): *President, the Secretary still has not responded to one point, which is whether the policy of killing animal indiscriminately is indifferent and inhumane.*

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): First of all, I need to stress that the government policy is not to kill animals indiscriminately. Putting animals down by euthanasia does not equate to killing animals indiscriminately. I wish Mr HO can differentiate between them.

PRESIDENT (in Cantonese): Second question.

Dispensation of Wrong Medicines in Residential Care Homes for the Elderly

2. **DR JOSEPH LEE** (in Cantonese): *President, regarding the recent incidents in which wrong medicines were dispensed to elderly residents at some residential care homes for the elderly (RCHEs), and the fact that employing registered pharmacists to monitor the procedures for dispensing medicines is not a mandatory requirement in the existing licensing conditions for RCHEs, will the Government inform this Council whether it will:*

- (a) *in order to prevent mistakes in dispensation of medicines by RCHE staff, implement new measures such as developing new guidelines to ensure that all RCHEs in Hong Kong will monitor the process of dispensing, storing, labelling and distributing medicines with a well-developed, stringent and uniform drug management system, adopting an effective system to record information on the medicines taken by the elderly, and requiring RCHEs to employ resident pharmacists or dispensers to take up high-risk and professional duties such as handling, recording and distributing medicines; if so, of the details of such measures and when the authorities expect such guidelines to be completed; if not, whether existing measures which mainly target at the training of Health Workers (HWs) is effective in preventing mistakes in dispensation of medicines, and how the Government can ensure that RCHEs will achieve "zero error" in handling medicine;*
- (b) *review the existing mode of subsidy for RCHEs and raise the mean subsidy amount in order to enable RCHEs to employ professional nurses to distribute medicines and provide proper nursing care services; and*
- (c) *set out in the conditions for the issue and renewal of licences for RCHEs the respective manpower ratios of nurses and HWs to RCHE residents and the requirement of the employment of resident pharmacists?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we are concerned about the awareness of RCHEs of drug safety and their capability in handling drugs properly. The Residential Care

Homes (Elderly Persons) Regulation (the Regulation) and the Code of Practice for Residential Care Homes (Elderly Persons) require that RCHEs should label the drugs clearly, keep them in a safe and locked place, and distribute them to residents by nurses or HWs in accordance with the prescriptions and advice of registered medical practitioners.

The Licensing Office of Residential Care Homes for the Elderly (LORCHE) of the Social Welfare Department (SWD) and the Visiting Health Teams of the Department of Health (DH) instil RCHEs with knowledge of drug safety and management. RCHEs are required to adopt a system of "three-checking and five-verification" for minimizing errors in distributing drugs. The SWD, the DH and the Hospital Authority (HA) had earlier on jointly completed a drug safety protocol, and disseminated it to RCHEs this April.

To enhance consumers' access to information and RCHEs' vigilance on the Residential Care Homes (Elderly Persons) Ordinance (the Ordinance) and the Regulation, the SWD implemented a new measure on 15 December 2005 to publish in its website the information of RCHEs convicted under the above Ordinance or Regulation on or after that date. The SWD has recently published the information of two convicted RCHEs.

My replies to the specific questions raised by Dr Joseph LEE are as follows:

- (a) We agree that RCHEs should systematize their drug distribution process. The DH's Visiting Health Teams will work with the SWD to design a drug management system tailored for the local environment of RCHEs, including a detailed drug handling manual and guidelines on drug storage and facilities, with a view to further systematizing the process. Also, they will provide training to RCHE staff to enhance their drug handling know-how and skills. The SWD and the DH will identify the weaker links in the existing drug handling process in RCHEs and assist them to strengthen those areas.

The experience and know-how of pharmacists on drug management is relevant to RCHEs in enhancing their drug handling capability. However, I wish to point out that while RCHEs have to distribute

drugs to residents and serve them in taking medication, they are not involved in the dispensation of drugs. The duties of RCHEs in the handling of drugs are similar to those in hospital wards. While requiring basic knowledge of drug management and prudence, the task of distributing drugs is not exclusively the professional ambit of pharmacists or dispensers. It is part of the regular duties of nurses or HWs. We consider it a proper arrangement for the SWD to require RCHEs to deploy nurses and HWs to distribute drugs.

There are ongoing co-operation between individual pharmacist associations and individual RCHEs on enhancing the latter's drug handling capability. We encourage co-operation of this nature. In June this year, the Health, Welfare and Food Bureau invited the three local pharmacist associations and various associations representing local RCHEs to a discussion to exchange views on how to further enhance the drug management capability of RCHEs. We are pleased to continue with the discussion and co-operation.

- (b) On the issue of subsidy, subvented care and attention (C&A) homes have the necessary resources to employ nurses to meet their operational needs. Their overall manpower provision is in general higher than the licensing requirement. Since the implementation of the lump sum grant mode by the SWD, subvented RCHEs have greater flexibility in deploying resources to recruit staff for meeting their operational needs.

The most crucial manpower problem of RCHEs at present is the difficulties in recruiting nurses. Nursing shortage in the recent years and the preference of the Registered Nurses for working in hospitals are the contributing factors. To address the nursing shortage in the welfare sector, the SWD has commissioned the HA to organize two rounds of Enrolled Nurses (ENs) training programme specifically for the welfare sector in March and November this year. Graduates are required to work in the welfare sector as ENs for at least two years after graduation. We believe that the 220 ENs graduating from the two rounds of training programme will help alleviate the nursing shortage in RCHEs.

- (c) On the issue of staff ratio, the Regulation has set out the minimum requirements on the ratio between care staff and residents. A C&A home should have at least a manager, a nurse for every 60 residents, a HW for every 30 residents if there is no nurse, and a prescribed number of care workers. Contract homes and private RCHEs participating in the Enhanced Bought Place Scheme are required to comply with and maintain a care staff ratio higher than the licensing requirements.

As I have explained, we do not see the need to require all the RCHEs to employ pharmacists or dispensers. Therefore, we will not make this a statutory requirement.

DR JOSEPH LEE (in Cantonese): *President, in the main reply, the Secretary said that many guidelines and practices have already been put in place and that new training would be provided to HWs. My question is about part (c) of the main reply, in which the Secretary stated that under the existing licensing requirement for RCHEs, a RCHE should at least have a nurse for every 60 residents or a HW for every 30 residents. In other words, a RCHE may still be granted a licence even if it does not have a nurse.*

Actually, the distribution of medicine does not simply involve the procedure of distribution, it also involves assessment, judgement making and education, and we doubt whether a HW is qualified to perform such tasks. If the Secretary considers that they are qualified, may I ask why there are still so many incidents involving the dispensation of wrong medicines in RCHEs? In what way can the Secretary justify that current policies are sufficient in protecting the elderly in RCHEs and no amendment is required?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the requirement I mentioned earlier is only a minimum requirement. But, as far as I know, many RCHEs have employed nurses or experienced HWs, and of course, this is open to further review. Dr LEE mentioned the frequency of dispensation of wrong medicine just now, but actually, incidents of this kind were revealed only over the past year. I do not believe that incidents of this kind had never happened in the past. It is just that when these incidents occurred in the past, the cause of illness of the patients

affected could not be identified upon hospitalization. But owing to the strengthened co-operation between the HA and RCHEs this year, we may, in the event of any incident, immediately trace back to RCHEs and identify these problems after review. I thus encourage the maintenance of this mechanism.

Though "zero error" is a target we aim to achieve, more often than not, in cases where human involvement or human resources is involved, anyone may make mistake. Therefore, we should step up our efforts in supervision and training, enhancing their capability in this respect instead of increasing the types of workers or professionals involved in the work of RCHEs.

We can also foresee that the workload of a full-time pharmacist or dispenser in a RCHE will not be quite substantial, and will thus fail to attract some capable pharmacists to take up such jobs.

PRESIDENT (in Cantonese): In total 10 Members are waiting for their turns. Will Members who have the chance to ask supplementaries please be as precise as possible.

MR LI KWOK-YING (in Cantonese): *In the main reply, the Secretary mentioned a system of "three-checking and five-verification", which I believe aims to ensure that drugs are only provided to patients after they have been cross-checked by qualified nurses. However, many owners of private and small-scale C&A homes have told me that though they meet the requirement of one nurse for every 60 residents, they face difficulties in recruitment. These owners said that it is not because they do not want to employ nurses, but that they can recruit none. The Secretary stated in the main reply that the supply of ENs would increased, but these ENs have to spend two years on training and another two years on practice. May I ask the Secretary, during these four years, how the problem of dispensation of medicines in small-scale C&A homes can be addressed under the existing deficient "three-checking and five-verification" system? How can the Secretary ensure that they will not make mistakes again?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I have to point out that the "three-checking and

five-verification" system does not necessarily be carried out by nurses, HWs may also perform this task.

The so-called "three-checking and five-verification" system refers to: first, the checking of medicines at three different timing, that is, when medicines are taken out from the medicine cabinet, when medicines are distributed to patients and when medicines are put back in the cabinet. Checking must be conducted on these three occasions. As for five-verification, it refers to the verification of the patient's name, name of drugs, dosage, means of administration (that is, by oral or other means) and time for taking medicine. I believe these five items of information are very basic, and that every HW should know. Besides, they have learned that during their training. Therefore, in this respect, the system only requires the HWs or nurses concerned to pay attention in taking care of the patients and carrying out these procedures, which are not difficult. I think under the current circumstances, the occurrence of these incidents can be minimized by merely reinforcing training and stepping up the supervision of RCHEs.

MR LI KWOK-YING (in Cantonese): *President, the Secretary has not answered my supplementary question, for the thrust of my supplementary question is that RCHEs cannot recruit the required staff, not even HWs. They can hardly recruit a nurse to take care of 60 patients; sometimes, they cannot even recruit HWs. May I ask the Secretary how he can help these institutions during these four years?*

PRESIDENT (in Cantonese): The Secretary has already answered your supplementary question earlier. He pointed out that HWs can also perform the task of "three-checking and five-verification".

MR LI KWOK-YING (in Cantonese): *Since they have no way to recruit the required staff, then, during these four years, how can they deal with*

PRESIDENT (in Cantonese): They cannot recruit HWs either, can they?

MR LI KWOK-YING (in Cantonese): *No, they cannot recruit HWs also.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I see it, particularly, in terms of the licensing requirements for private RCHEs and the current occupancy rate, we find that there is still much room. It is not every RCHE but only certain RCHEs cannot recruit the required staff.

From my personal point of view, since the licensing requirements laid down by us must be followed by all RCHEs, if the RCHE concerned cannot recruit the staff required, it should limit the scale of its operation and reduce the number of places offered. From this perspective, we think there is room for RCHEs to reduce their scale, for the occupancy rate of many RCHEs is only 60% to 70% at present.

MS LI FUNG-YING (in Cantonese): *From the Secretary's reply, we can see that the present problem lies not in supervision and training, for the situation is now perfect, and as the Secretary said, the problem can be solved by mere supervision and training. But if the present situation is already perfect, that is, guidelines, rules and regulations are all in place, why such mistakes were repeated again and again? Dr Joseph LEE asked the Secretary whether he would consider formulating some new measures on this basis to achieve the "zero error" target. However, I do not notice any new measure in this respect. So, I really wish to ask the Secretary whether he will consider formulating some new measures to ensure that there will be "zero error".*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in my main reply to part (a) of Dr LEE's question, I have already stated that we consider the mistakes made recently should invariably be attributed to the different methods or procedures adopted by each RCHE in distributing medicines and possibly the lack of a standardized practice. Therefore, we have already requested the relevant departments under the purview of the Director of Health and the Director of Social Welfare to work together to draw up a drug handling system. Under the system, procedures will be defined in more details, so that all staff may follow step by step. I think this may help to solve part of the problem.

In fact, the HA did face a similar problem 10 years ago. At that time, since we found that mistakes were relatively frequent in drug distribution, we thus established some comprehensive and standardized systems. Staff members could quickly master the "three-checking and five-verification" procedure which is a practice that can greatly reduce mistakes. But, of course, despite this, errors may have been made due to human fallibility. But we do hope that this practice may substantially reduce the risk of making errors. Moreover, with enhanced training and supervision, I believe we can solve the problem gradually and reduce the frequency of these incidents.

DR FERNANDO CHEUNG (in Cantonese): *I find the "three-checking and five-verification" procedure mentioned by the Secretary divorced from the reality. A manager of a private RCHE once told me that the difficulties they encountered in recruiting nurses were so great that they had been obliged to employ nurses of any age, and had to accept at the end a nurse who needed to wear diapers — President, it is not residents of RCHE that need to wear diapers but the nurse.*

I wonder whether the Secretary is aware of the existing situation in private RCHEs. He said that everything was fine and that certain guidelines and the "three-checking and five-verification" procedure were in place. But it sounds ludicrous to me, that is, the issue related to HWs

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

DR FERNANDO CHEUNG (in Cantonese): *May I ask the Secretary whether he can seriously address the problems of dispensation of wrong medicines and quality of other services now found in RCHEs? Will a task force comprising members of all sectors, including pharmacists, health care workers (that is medical practitioners), the relevant organizations and representatives of private RCHEs, be set up to examine the issue or conduct studies again?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I have to point out that we should not discriminate

against persons who need to wear diapers, for people suffering from certain illnesses do have to wear diapers during work and we should allow them to work. Some workers suffering from physical illness, disabilities or other problems may need assistance in certain manner in order to cope with the working environment.

As to whether a special task force will be set up, just as I have said earlier, the DH and the SWD have already undertaken the work in this respect. When we have completed the detailed management handbook, we will certainly contact the relevant organizations to ensure that the content set out in the handbook will be implemented. By that time, we will surely act in accordance with the existing system and follow the current communication practice to ensure that all RCHEs can handle medicines systematically.

DR FERNANDO CHEUNG (in Cantonese): *President, I had to clarify one point, but I waited until the Secretary had finished his reply. Just now, I*

PRESIDENT (in Cantonese): You can make no clarification but only ask questions. Please state your follow-up question.

DR FERNANDO CHEUNG (in Cantonese): *Alright, I will follow up my supplementary question. I am definitely not discriminating against people wearing diapers. I just want to present the thrust of my question, that is, the recruitment of staff now is*

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered? You need only state that part.

DR FERNANDO CHEUNG (in Cantonese): *Actually, I would like the Secretary to face the existing problem squarely; there should be a mechanism.....*

PRESIDENT (in Cantonese): You ask the Secretary to face the problem squarely, but this is not part of your supplementary question.

DR FERNANDO CHEUNG (in Cantonese): *He should set up*

PRESIDENT (in Cantonese): Will a task force be set up?

DR FERNANDO CHEUNG (in Cantonese): *Yes, will a task force be set up?*

PRESIDENT (in Cantonese): Secretary, have you answered this already?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): I have already answered it.

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

MR ANDREW CHENG (in Cantonese): *The thrust of the entire problem lies in one point, that is, why the Government does not agree to stipulating in the law that every RCHE must engage a professional pharmacist or a dispenser. For we can see from the Secretary's reply that while RCHEs are unable to recruit nurses on the one hand, they are, on the other, not required to employ pharmacists or dispensers under the law.*

More often than not, people who have completed courses on pharmacy overseas or in Hong Kong cannot get a job. Many unemployed pharmacists are waiting for job opportunities. However, in order to save money or owing to inadequate resources, RCHEs which do not have nurses employ neither any pharmacist nor dispenser. Will the Secretary give a second thought to this issue in order to ensure the quality of RCHEs? RCHEs do not necessarily need to

employ a full-time pharmacist working whole day under all conditions, for eight to 10 hours every day. Some pharmacists may provide dispensary service to several RCHEs at the same time. In this connection, will the Government reconsider amending the law, which may on the one hand create jobs for pharmacists and render assistance to RCHEs in the dispensation of medicines on the other?

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

Madam President, first of all, though welfare issues are within my purview, I will not try to find additional jobs for professionals merely for the sake of providing job opportunities for them. The most important point is whether the nature of these jobs ties in with the professional requirement of the profession concerned. In respect of RCHEs, I have made it very clear that most of the tasks do not require pharmacists to work on site.

However, I agree that pharmacists may have a role to play in the medicine dispensation system and may render assistance in designing the system. Therefore, in conducting studies focused on the drug management system currently adopted by RCHEs, the two departments concerned will include the participation of pharmacist and will seek the views of the relevant associations of pharmacists. In respect of the distribution of medicines, many new technologies or facilities are available for consideration, such as the design of drug cabinet, storage methods of patients' medicines, ways of differentiating patients' medicines, and so on; these are areas where pharmacists may make contribution. However, with regard to day-to-day operation, it is not necessary to require pharmacists to be responsible for the distribution of medicines in RCHEs every day.

PRESIDENT (in Cantonese): Third question.

Future Use of Cheung Sha Wan Temporary Wholesale Poultry Market

3. **MR VINCENT FANG** (in Cantonese): *President, the Government has indicated that it will implement central slaughtering of live poultry in 2009. By*

then, the existing live poultry wholesale market will lose its original functions. In this connection, will the Government inform this Council:

- (a) of the use of the present site of the Cheung Sha Wan Temporary Wholesale Poultry Market (CSWTWPM) after the stoppage of the wholesale of live poultry, and whether it will conduct any consultation on the use of the resumed land; and*
- (b) whether it will consider giving preference to using the site as a wholesale market of other foods, such as fresh fruit; if not, whether the site will be converted for residential use, like the areas in the vicinity?*

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

- (a) In view of the recent emergence of avian influenza cases around the world and with the outbreak no longer confined to winter, there is an increasing risk of human infection of avian influenza. Therefore, we need to formulate long-term measures to prevent outbreak of avian influenza. Past experience has shown that humans were infected with avian influenza virus mainly through contact with live poultry or their faeces. Therefore, it has always been our long-term policy objective to achieve "human-poultry segregation".

To accomplish this policy objective, we have proposed to develop a poultry slaughtering plant in Sheung Shui and consulted the Legislative Council Panel on Food Safety and Environmental Hygiene, North District Council, the New Territories Heung Yee Kuk and the live poultry trade about the proposal. We are now carefully studying the views collected and will continue to liaise closely with the organizations or parties concerned in the planning process.

As the project involves massive preparation work, we expect that the plant will only commence operation in 2009 at the earliest.

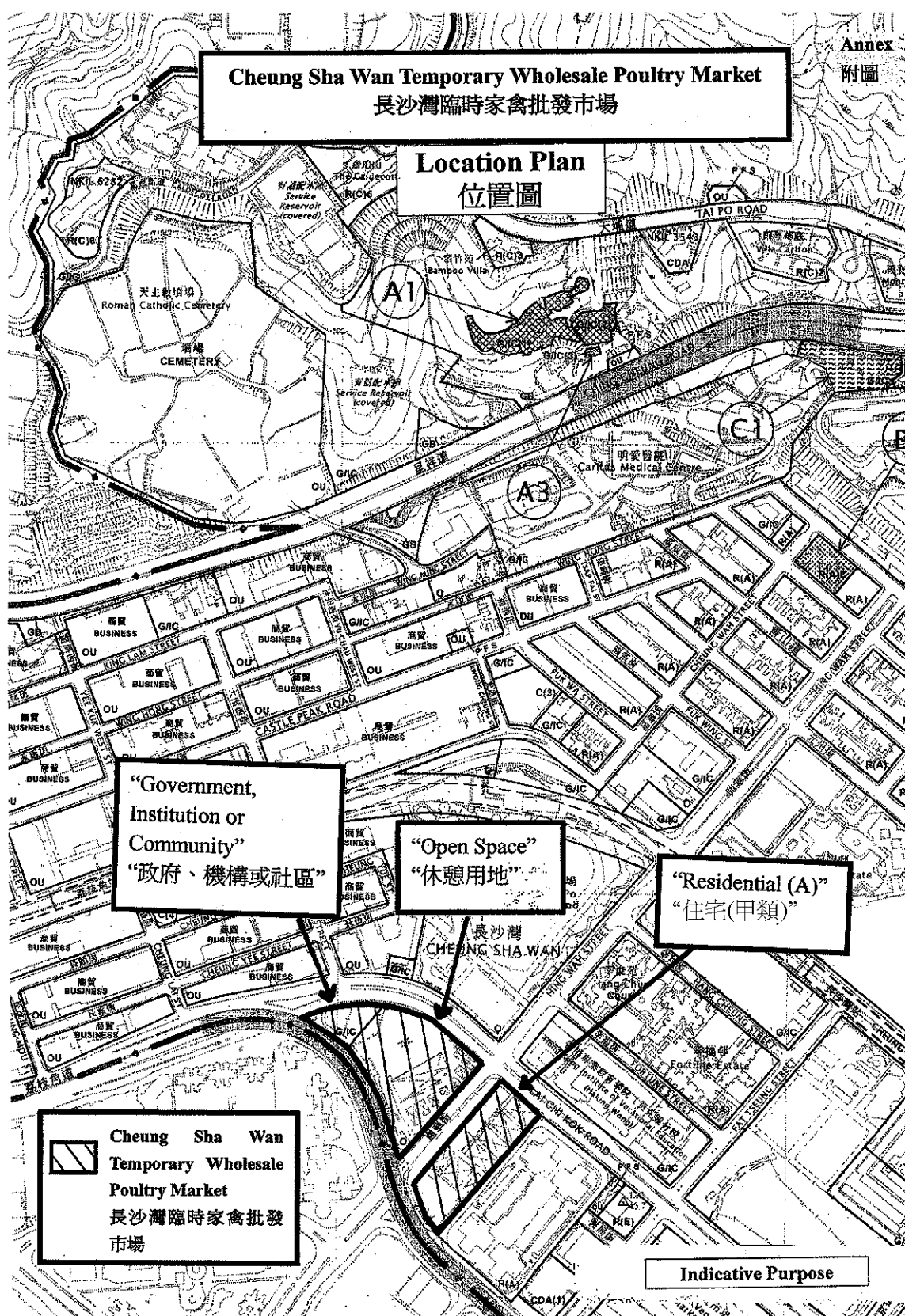
When the plant comes on line, all live poultry retail activities will be banned. Given that all live poultry from local or mainland farms will be transported directly to the poultry slaughtering plant, there will not be any live poultry wholesale activities in the plant in order to enhance effective management. Therefore, wholesale market would no longer constitute a part in the poultry supply chain in future.

As there is still a long time before the poultry slaughtering plant would commence operation, we have not yet drawn up any plan on the future use of the present site of the CSWTWPM.

The CSWTWPM is located on both sides of Hing Wah Street. (See Annex). The part on the northwestern side of Hing Wah Street has already been zoned for long-term development as "Open Space" and "Government, Institution or Community" in draft Cheung Sha Wan Outline Zoning Plan (draft OZP) in 1998 while the part on the southeast side of Hing Wah Street is designated as "Residential (Group A)". If the future development of the site involves amendment to the draft OZP, the department concerned would consult the public under the Town Planning Ordinance.

- (b) According to the usual procedures, the public works department involved would undertake feasibility study, including environmental impact and traffic impact assessments, to ascertain whether the site is suitable for a particular public works project. Our experience shows that the operation of a wholesale food market would generate considerable noise and additional traffic in the neighbourhood. As such, any new fresh food wholesale facilities should be located away from densely populated area. As such, the present site of the CSWTWPM is not an ideal location for the development of a new wholesale food market, given the development of residential buildings in a nearby site.

There is no concrete plan for the site at present. As noted in part (a) of the main reply, part of the present site of the CSWTWPM has already been zoned for residential development.



MR VINCENT FANG (in Cantonese): *President, I would like to follow up part (b) of the main question. The trade has told me that the existing wholesale markets, such as the Yau Ma Tei Fruit Market and the Tuen Mun Wholesale Fish Market, are suffering from space shortage. May I ask the Secretary whether the Bureau will consider carrying out a review of the use of the wholesale food markets? Will there be extra land for the relocation of wholesale markets or building new ones in future?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I can recall, a plan has been drawn up for the Tuen Mun Wholesale Fish Market whereby an extension will be undertaken.

Furthermore, we have, in fact, reserved some space in the Cheung Sha Wan Wholesale Food Market Complex Phase II Project. Once the Yau Ma Tei Fruit Market moves out, certain plans will be implemented there. Therefore, we will see what is to be done in the long run. As we all know, the Centre for Food Safety has just been established, therefore the policy in relation to the protection of food safety in particular, has to be reviewed. We must, in the first place, target food items that are considered high risk. As fruit is not considered high risk for the time being, we will only consider the need to relocate the Fruit Market to a new site at a later time, with a view to facilitating its better development.

MR FRED LI (in Cantonese): *President, I would like to follow up the part of the main question concerning the selection of a site in Sheung Shui for building the central slaughtering plant. As far as I understand it, the North District Council was in opposition to it, and District Council members of the Democratic Party have suggested the Government to build the central slaughtering plant somewhere else in Sheung Shui. Will the Secretary receive further views before deciding on the site in Sheung Shui, and instead select a location that has wider support? This approach is more desirable than to select a site opposed by the public overwhelmingly.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we are now working hard to identify alternative sites in North District. Of course, there are still a couple of options, but they may have more

constraints and more time will be needed before central slaughtering can be implemented. Therefore, we are now exploring other options. As for the details, please allow us to undertake the necessary analysis before giving an account to the relevant Panels of the Legislative Council, District Council and Heung Yee Kuk later.

MR LAU KONG-WAH (in Cantonese): *President, I also wish to ask about the site in Sheung Shui. Given that the site is basically in close proximity to the Mainland, which has its own central slaughtering plant, has the Government assessed the cost-effectiveness of building a central slaughtering plant in Sheung Shui? If the plant is actually built, will the Government assess its sustainable development to avoid wastage?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, during last year's review, organizations interested in operating a central slaughtering plant in Hong Kong had been consulted, and among them, four had indicated an interest in the project. Should we go further to identify a site or draw up relevant policies in other respect, for instance, just as what we said, the establishment of a central slaughtering plant can address problems relating to the retail of live chickens, the operators will certainly find it more attractive. Of course, they will have to examine the cost computations. I believe businessmen will consider the manpower and resources required, the appeal of establishing a central slaughtering plant in Hong Kong, and in particular, the competitive edge of its product over chilled chickens imported from the Mainland or other places. I think consideration has to be given to many aspects.

We will therefore decide on the site or relevant policies in other respects as early as possible, and then consult the interested commercial organizations to see if they are still willing to take forward development in this respect. These are precisely the steps that we will take in addressing this issue.

MR TOMMY CHEUNG (in Cantonese): *President, I also wish to follow up the response made by the Secretary in response to Mr LAU Kong-wah's supplementary question. The Secretary has actually stated on a number of occasions that some people (that is organizations) are interested in implementing central slaughtering. However, as far as I understand it, the site referred to at*

that time was in Western District on Hong Kong Island, but now the site is further north, which is very far away from the market in Hong Kong proper. Is the Secretary trying to mislead us? He said time and again that some people had indicated interest in the project during the last consultation exercise, and yet, the site now selected by the Government is actually completely different. Has the Government consulted if anyone is interested in respect of the current site? If not, why did the Government still spend so much time and money to give further consideration to the establishment of a central slaughtering plant further north?

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

Madam President, so long as my memory is still good, I recall that many interested organizations and companies did not attach much significance to the location of the site, but they were concerned if there would be live chickens on sale in the market to compete with them. This is their greatest concern. I believe they will reconsider the project as long as the existing policy remains clear. Furthermore, the edge of establishing a central slaughtering plant in North District lies not only in its proximity to our farms, but its proximity to the imported live chickens as well, which enables the transportation of chickens to the central slaughtering plant in less than 10 minutes upon completion of the necessary custom clearance. It sounds to be a more desirable site to the commercial operators of the central slaughtering plant. Of course, the distribution or transportation of slaughtered chickens to the market will be another consideration.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, has your supplementary question not been answered?

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has not answered my supplementary question. The Secretary said consultation had been carried out, during which some people had indicated interest in the implementation of central slaughtering. However, at that time, the site referred to was in Western District and that live chickens were proposed to be sold together with chilled chickens. Also, the site concerned was referred to as a regional slaughtering plant instead of the central slaughtering plant now said to be established in North District. With regard to the central slaughtering plant*

to be built in North District, no consultation exercise has been carried out by the Government at all. The Secretary should not mislead the public by saying time and again that consultation has been conducted, and that some people have indicated an interest in the project. Mr LAU Kong-wah and I both believe that no one will undertake central slaughtering if the site is in North District, as people would rather import chickens from China or Shenzhen. Why bother to do all these things?

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I added just now that the main concern of the interested parties was not the location of the site, but whether or not they would face commercial competition. I have learnt through informal channels that they are still interested in the project. Of course, more information has to be provided to them before the next round of the consultation can be conducted.

MISS CHOY SO-YUK (in Cantonese): *President, will the Government provide assistance to those affected by this project by offering extra compensation to them? In other words, will compensation be made to assist the transformation of staff or workers in the trade as a result of the implementation of central slaughtering?*

PRESIDENT (in Cantonese): It seems that your supplementary question has departed from the main question.

MISS CHOY SO-YUK (in Cantonese): *The Secretary now said that the central slaughtering plant will be built in Sheung Shui, and so I wish to ask, President..... Perhaps I raise the supplementary again, is that fine? (Laughter)*

PRESIDENT (in Cantonese): Fine, you raise the supplementary again.

MISS CHOY SO-YUK (in Cantonese): *Some people in the trade will be affected as a result of this change, that is, the change in location may have impact on the workers concerned. Has the Government planned to offer compensation to them?*

PRESIDENT (in Cantonese): Miss CHOY So-yuk, sorry, I cannot allow you to raise this supplementary question. Maybe you have to wait till the next Legislative Session in order to raise this supplementary.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary said just now that certain commercial organizations still have some interest in the project, which means that their interest has diminished. In fact, we can hardly imagine what it is like for the live chickens to be transported all the way from Shenzhen to Hong Kong, and eventually to the central slaughtering plant. If the processes can be completed in Shenzhen in one go, the cost will be very different. Therefore, may I ask the Secretary why the Government did not look into the sustainability of this commercial operation? There will be no need to identify any site if the development is not on. Now, the Government has instead identified a site in the first place, followed by a consultation on people's interest in the project. Have you somehow reversed the procedures by doing so, Secretary? Will you first explore the viability of this commercial operation?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the two things can certainly be done in parallel. And yet, we find that we are still obliged to look after the local chicken farms. Should any chicken farms in Hong Kong still feel interested in rearing chickens, there are 2 million chickens available which will ensure a supply of 20 000 chickens for sale on the market every day, and so there is a need for us to consider how their chickens will be slaughtered.

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, I wish to follow up the selected sites of the central slaughtering plant in Western and North Districts as mentioned by Honourable colleagues. May I ask what criteria and basis were adopted in selecting the sites? Should it be in close proximity to*

cows to facilitate slaughtering, or the market to facilitate the distribution of meat to the general public?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I cannot quite catch whether Miss TAM was talking about cows, chickens or.....

PRESIDENT (in Cantonese): Secretary, please be seated.

MISS TAM HEUNG-MAN (in Cantonese): *I was talking about central slaughtering. Honourable colleagues just asked whether the central slaughtering plant would be built in North District or Western District, therefore I would like to ask the Secretary: What was the basis adopted to determine the siting of the central slaughtering plant?*

PRESIDENT (in Cantonese): Secretary, she asked about the chickens.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): I wonder if I caught one word incorrectly. I guess I have explained time and again to the panel or during the Question Time of the Legislative Council that, in identifying the site for the central slaughtering plant, some major factors have to be considered, including: first, the site is hoped to be far away from residential areas; and second, it should be in close proximity to the live chickens to be transported. Since the majority of the local farms are clustered in the northwestern part, whereas live chickens are imported into Hong Kong through Man Kam To, we therefore opine that North District is the most suitable location. Furthermore, we must also take into account matters concerning sewage treatment or sewage services, and so it is necessary to identify places that are provided with suitable facilities. Transportation is another problem. The present location in North District can achieve all the four main purposes.

In response to the District Council's question about other alternatives, we have been actively identifying other possible locations in the same district.

However, it will take some time to analyse each site and consider different factors, before deciding whether or not they are more desirable than the selected site.

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, the supplementary question I raised just now is actually a follow-up on Hounourable colleagues' concern about whether the selected site is close to the retail outlets. May I ask the Secretary if the site's proximity to the market is one of the criteria considered?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, this is, of course, one of our considerations. We wish to identify a place that is very near to the transport node, and we are of the view that a site in the New Territories — particularly one that is near to the New Territories Circular Road — will enable slaughtered chickens to be speedily transported to the urban area.

MR LEUNG YIU-CHUNG (in Cantonese): *I wish to follow up the supplementary question raised by Mr Tommy CHEUNG. I heard Mr CHEUNG say that one organization is interested in undertaking the project, but if the selected site changes to somewhere in North District, perhaps it will no longer be so interested. The Secretary, however, replied earlier that it still has some interest in the project and information will therefore be provided. I wish the Secretary to clarify this: Will the siting and the option of central slaughtering not be contemplated if the organization in question lost any interest in the project? Or will the Secretary draw up new plans to resolve this problem? What will the Government do if there is no interested operator?*

PRESIDENT (in Cantonese): It seems that this supplementary is hypothetical.

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary just stated very clearly that the organization in question still has some interest in the*

project. But I am concerned that such small interest may fail to induce it to undertake the project, so what can be done then?

PRESIDENT (in Cantonese): Due to the limited question time, I allow you to raise this supplementary question. Secretary, please answer.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Certainly, I am not aware that Mr Tommy CHEUNG has said there is one interested organization. Rather, just now I said there are four. It is therefore fair to say that there are really some organizations which have indicated interest in the project. Given that there are interested parties, we will conduct further studies on this. Of course, if no one is interested in the conditions set out by us, we will have to think about the way forward. However, just as I said earlier, so long as we are capable of rearing chickens on our own, we still wish to support the trade to keep on transporting these Hong Kong-supplied live chickens to the slaughtering plant, thereby supplying the market with fresh chickens.

MR LEUNG YIU-CHUNG (in Cantonese): *President, sorry, what I exactly wish to ask the Secretary is what the Government would do if those organizations lost interest in the project. This is the part which the Secretary has not answered.*

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): I think we better adopt an ad hoc approach. *(Laughter)*

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

MR TOMMY CHEUNG (in Cantonese): *President, I also wish to follow up the Secretary's reply to me. The Secretary said that the edge of the site in North*

District lies in its proximity to Shenzhen, so that imported live chickens can be transported there for slaughtering. Is this a split personality, may I ask? I am not saying the Secretary, but he has indeed made me become someone who has a split personality. The Secretary expects all live chickens to disappear from Hong Kong on the one hand, but wishes to protect the live chicken farms in Hong Kong on the other. There is no reason for us to transport the live chickens imported from Shenzhen all the way to the slaughtering plant for chilled chickens. We should import the chilled chickens instead. In fact, I wish to ask the Secretary whether any policy will be formulated to impose a ban on the sale of live chickens in Hong Kong once the central slaughtering plant is established, thereby prohibiting the import of live chickens from Shenzhen into Hong Kong? If there are live chickens on our farms, they will be slaughtered by the farms themselves; but if there are no live chickens on the farms and no one rear any chickens at all, it is downright not necessary to establish any slaughtering plant as only chilled chickens will be imported from China. If this is our policy, there is no reason to allow the importation of live chickens into Hong Kong.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, discussions have been held at different levels regarding this issue. Hong Kong is a special place where people like eating fresh chicken very much, while people from other parts of the world enjoy both frozen and chilled chickens. I am of the view that since Hong Kong is the so-called gourmets' paradise, we should by all means provide Hong Kong people and restaurants with the necessary ingredients under a safe and hygiene environment. Therefore, we think that, anyhow, the idea of having a place where chickens can be slaughtered and sold in the market shortly afterwards while keeping them fresh, does sound more attractive than importing chilled chickens from other places. I consider that the concept of central slaughtering still has room for this, and so I want to find out how many commercial organizations have interest in it. If they are really interested, I believe positive efforts should be made to expeditiously take forward the work.

MR TOMMY CHEUNG (in Cantonese): *President, perhaps you will not allow me to raise this follow-up question because I am not following up. I think the Secretary has made me even more confused, not simply a split personality. I remember the Secretary said in this Chamber last time that, following the implementation of central slaughtering in 2009, a ban would be imposed on the*

sale of warm meat (that is, chickens which are not kept at a temperature between 0 degree Celsius and 4 degrees Celsius after being slaughtered) in the market. Besides, only a couple of food premises nearby can still secure a supply. However, it seems that what the Secretary said right now is different. He said that a lot more food premises may be supplied with warm meat in the future. May I ask the Secretary to elucidate his earlier reply: Is there a change in the policy lately? I do not oppose the supply of warm meat, besides chilled chickens, to food premises territory-wide. I just want the Secretary to clarify his reply.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, in my personal capacity, I also share the same feeling. However, as the President of the Legislative Council, I will not allow you to raise this question because it is not a follow-up question. We will now proceed to the fourth oral question.

Assistance for Persons with Muscular Dystrophy

4. **MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, at present, persons with muscular dystrophy (PMDs) have to wait for three years on average before they are admitted into care and attention homes for the severely disabled, and they will no longer enjoy the residential and physiotherapist services provided at schools for students with physical disability upon graduation. Also, it is often difficult for these persons to find jobs, even if they have obtained university graduate qualifications. In this connection, will the Government inform this Council:*

- (a) *whether it knows the assistance provided to PMDs by the governments in various developed countries, and whether it has studied which of these countries' practices are worthy to be followed by Hong Kong;*
- (b) *whether it plans to provide more assistance to PMDs (especially those who have left schools for students with physical disability), as well as to take measures to shorten the waiting time for admission into care and attention homes for the severely disabled; if so, of the details of the plan, including the amount of additional expenditure involved; if not, the reasons for that; and*

- (c) *whether it will take special measures to help PMDs find jobs, offer tax concession incentives to private enterprises to encourage them to employ these persons, and make government departments and subvented organizations take the lead in employing them; if so, of the relevant details; if not, the reasons for that?*

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

Madam President, first of all, I would like to offer my apology because I have to answer a number of oral questions today and do not have time to study in detailed the Chinese and English versions of Mr LEUNG's main question. The term adopted in the Chinese version of the main question is "肌肉萎縮症", whilst in English, the corresponding term is "muscular dystrophy". However, these two refer to different situations. So, I would like to give a consolidated reply on muscular or neurological diseases which could lead to similar degree of disabilities because the patients would have more or less the same medical or rehabilitation needs. Here I would like to give an explanation first.

Madam President, the Government's rehabilitation policy aims at helping people with disabilities fully develop their potentials and talents, enjoy their lives and fully integrate into the society, enjoying equal opportunities.

- (a) Muscular dystrophy (MD) is a general term for a group of uncommon neurological diseases mainly caused by — Madam President, let me make some changes here — apart from the anomaly of cells in central nervous system, there is also anomaly of cells in muscles, or absence of certain muscle proteins, characterized by dysfunction, progressive degeneration and atrophy of muscles.

At present, the medical sector has yet been able to pinpoint the actual causes of MD, neither is a treatment available for a radical cure or stopping the deterioration of the symptoms. However, early diagnosis and treatments, accompanied by occupational therapy and the use of rehabilitation aids, could help slow down the deterioration, lower the emergence of complications and improve patients' quality of life.

Both the pathology researches and treatment techniques in Hong Kong are up to international standards in view of our advanced medical technologies and services. Moreover, we have maintained close communication with overseas experts in related fields. This will help bring in novel medical technologies for the benefit of rehabilitating people with disabilities.

As in the case of other advanced countries, we provide PMDs with rehabilitation and support services, including maintenance of functional capacity, training of daily living skills, residential/home care, special education, vocational rehabilitation, provision of assistive devices, priority for housing allocation and modification, and disability allowance, and so on.

- (b) Through the provision of rehabilitation services for PMDs, we seek to help them lead an independent life and maintain their self-care capacity, thereby enabling them to continue to enjoy normal life and social activities. To this end, we have been making vigorous efforts to develop community rehabilitation and support services in recent years to render maximum assistance to people with disabilities for living in the community, enjoying family lives, taking part in community affairs and integrating fully into society.

PMDs living at home may apply for home-based training and support services, including nursing service, personal care, occupational therapy, physiotherapy and other rehabilitation training to enhance their self-caring capacity, to help their families and carers relieve their pressure. In addition, we also provide people with severe disability with information on rehabilitation aids/assistive devices needed; give them advice, financial allowance and/or renovation service regarding household modification; and assist to apply for relevant charity funds to facilitate their living in the community.

For persons with severely deteriorating functional capacity who cannot obtain adequate support and care from their families or carers, they may apply for residential care service run by the Government. Applicants under special circumstances where

family care is not available may apply for priority allocation of residential places.

- (c) The functional capacity of PMDs would decline progressively. It may therefore not be suitable for PMDs to engage in labour work. However, with advanced scientific and computer assistive devices, they can engage in work that requires more mental capacity such as computer application, writing or design, and so on. Considering such physical constraint, most of the vocational training that we design and provide for them emphasize these areas, in order to match with their work capacity. They may also apply to the Central Fund for Personal Computers for acquiring personal computers to facilitate their receiving supported employment and setting up self-employment at home.

As the largest employer in Hong Kong, the Government fully recognizes the importance of taking a lead in employing people with disabilities in order to help them fully integrate into society. The Government is committed to placing people with disabilities in appropriate jobs in the Government whenever possible. Candidates with disabilities are given an appropriate degree of preference for appointment if they are found suitable for employment, and applicants with MD will receive the same treatment.

As regards the proposed tax concession incentives, the Financial Services and the Treasury Bureau considered the provision of taxation relief as an incentive to encourage employers to employ people with disabilities not ideal.

We fully understand the importance of employment in facilitating integration of people with disabilities into society. A Subcommittee on Employment has been set up under the Rehabilitation Advisory Committee to advise the Government on all matters concerning employment for people with disabilities, with the goal of improving employment prospects and exploring new employment avenues for people with disabilities in both the public and private sectors.

MR LEUNG YIU-CHUNG (in Cantonese): *President, as the Secretary just said, the brains of PMDs function well although their muscles or four limbs have defects. So, they cannot take care of themselves and must be looked after entirely by their families or third parties. But unfortunately, their families will encounter a lot of difficulties and face tremendous pressure. So, some patients very much hope that they can continue to live in the care and attention homes after graduation so that they can fully make use of their mental capacity and engage in work.*

In the main question, I mentioned that they have to wait for three years on average before they are admitted into hostels. This period is rather long. I asked the Secretary a question about this but he did not answer what could be done in order to reduce their waiting time. As they have to wait for a long period of time at home, it is really very hard. So, may I ask the Secretary whether there are any timetable and roadmap, which means the number of hostel places to be provided in future and by how much the three-year waiting time can be reduced?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, at present, the service quota in the care and attention homes for the severely disabled is 665 while the number of people on the waiting list is 380. In other words, the average waiting time is almost three years. We are now actively considering whether such service quota can be increased.

Having said that, we can also see that some people with disabilities will have a better quality of life by staying at home rather than in hostels because they can be looked after by their families and on intimate terms with their families. Of course, we will also consider their living environment, whether their family members have other jobs and can really take care of them, and whether they have other resources such as hiring a maid to look after them. So, we will assess their needs from different perspectives before deciding what to do.

But I have to admit that in the past, service in this area was inadequate. However, the Bureau is now conducting a review of their residential needs. If it is necessary to increase the hostel places, we will fight for more resources to meet the need.

MR LEUNG YIU-CHUNG (in Cantonese): *President, my question is very clear. I ask the Secretary whether there is a timetable in his review and how the number of hostel places will be increased because they are very anxious to know these figures. They have been waiting for so many years, in eager expectation.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I can tell you that we are now actively making efforts in this aspect. But we do not have a figure for the time being, nor do we have any timetable as mentioned by Mr LEUNG.

MR LEUNG KWOK-HUNG (in Cantonese): *President, in the part (a) of the main reply, the Secretary said that the Government's responsibility is to help these people lead a normal life as soon as possible and reduce their sufferings. May I ask the Secretary, in order to achieve this goal, whether he can provide this Council or the President some figures? First, does he have any figures to compare the expenditures related to MD, such as medical or social welfare expenditures, in Hong Kong and that in other advanced countries? This is the first part of the question. Second, if such figures are not available, will you consider compiling such data in order to enable this Council to monitor the Government? I ask the comparison of these figures.*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down after asking your question so that I can invite the Secretary to answer it.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): First of all, I would like to mention one thing. It is so unfortunate that MD, as a kind of disease, cannot be cured. Moreover, it will deteriorate.

Mr LEUNG just mentioned rehabilitation of the patients. But I believe this is not a question of rehabilitation. Rather, it is a matter of how to help the patients enhance their self-care capacity within their limited functional capacity so that they can enjoy a better quality of life no matter at home or in their social life. Of course, we hope that jobs can be arranged for them if they have creativity or other abilities to work.

Regarding the expenditures mentioned by Mr LEUNG, as the main question has not specified which disease, so, generally speaking, there are 350 PMDs in the whole territory. Some of them are living in care and attention homes while some are living in hostels of special schools. As they receive different care in different accommodations, the costs are different. In hospitals, for example, the cost per day is \$3,500. On that basis, you will know how much expenditure will be incurred for them. However, some patients also require breathing machines. In other words, they need to have a breathing machine installed beside them or require the attention of more health care workers. In that case, the cost will certainly be much higher.

Regarding homes for the severely disabled, these are divided into two main categories. The first one is care and attention homes and the other is hostels. The cost of the former is around \$160,000 a year while the cost of service for each person living in hostels for the severely disabled is around \$130,000 a year. From this, we can see the cost incurred generally. I hope this information is sufficient as far as Mr LEUNG is concerned.

MR LEUNG KWOK-HUNG (in Cantonese): *President, first of all, I would like to say "sorry" because I was in a rush when asking my question. In fact, what the Secretary said in his main reply is that: "However, early diagnosis and treatments, accompanied by occupational therapy and the use of rehabilitation aids, could help slow down the deterioration, lower the emergence of complications and improve patients' quality of life." This should be the part I would like to refer to. Sorry, just now I did not state it clearly.*

Having said that, the Secretary has in fact not answered my supplementary question, the first part of which is about whether the authorities have such figures and the second part is about how such figures compare with that of other regions. However, the Secretary told me to calculate these figures myself. Although I can do so, just like Arthur LI, by using a calculator, I cannot get the figures to show how the relevant expenditures of other regions compare with ours if I am not provided with such data because I cannot arrive at these figures by doing the calculations myself. So, I hope the Secretary can provide these figures to me because I am not asking an aimless question.....

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, you only have to mention the part of your question that has not been answered. I think you have done so.

MR LEUNG KWOK-HUNG (in Cantonese): *OK, I got it.*

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, it is quite difficult to get the figures concerning the cost of services of other countries. It is not because we are reluctant to do so, rather, it is difficult to do so. Of course, we will try our best to get the relevant information. (Appendix I)

DR KWOK KA-KI (in Cantonese): *Madam President, although the Secretary said that he fully understood their situation and would like to offer help, they have to wait for three years which will cause a lot of hardship to many families, as the Secretary just said. This is especially true when their functional capacity keeps deteriorating and nothing can help them rehabilitate. Or as the Secretary said, they are unlikely to recover.*

Can the Government, through the Secretary, tell us what specific and pragmatic plans there are to shorten the waiting time for hostel places in the short term? Can we be provided with a timetable?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I just said, quite a number of these patients are living in hospitals or rehabilitation centres, apart from hostels under the Social Welfare Department or institutions which look after the disabled. So, in our opinion, even if there can be more hostels to help reduce the burden of hospitals in caring for the disabled, it is necessary to have effective matching support.

Of course, we also provide home care, for instance, to the disabled who are living with their families. We will send specially assigned workers to do

home-based rehabilitation treatment for them or offer other assistance. As for the families who have to provide long-term care to the disabled, we have also provided occasional care service in order to relieve their burden. We do provide such service to them at present. But I agree that there are inadequacies. So, more efforts will be made in areas which are regarded as the bottleneck in order to solve the problem in an easier way.

DR KWOK KA-KI (in Cantonese): *President, in fact I would like the Secretary to tell us the timetable which is the most important.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have answered this question in my earlier replies to other Members. I do not know whether or not Dr KWOK had entered the Chamber at that time. We do not have any timetable for the time being.

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

DR FERNANDO CHEUNG (in Cantonese): *President, in the past five years, 15 PMDs have graduated from the John F. Kennedy Centre, the only special school for the disabled which provides senior secondary school places. Among the 15 graduates, three of them possess university degrees and are still waiting at home. To put it correctly, seven people are waiting at home because they are unemployed. If they want to make use of the day care service just mentioned by the Secretary, the cost of home-based rehabilitation training service is \$60 per 45 minutes. In other words, on the basis of receiving three hours of physiotherapy a week, the monthly cost will be around \$1,000. Now these PDMs who have to wait for several years before being allocated hostel places cannot afford these services. They want to work but fail to find employment. As the Secretary just said, their condition will deteriorate. May I ask the Government how assistance can be offered to them?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I just said, I also admit that there are inadequacies in this

aspect. However, at present, I am sure those who cannot afford these services can apply for assistance, especially families who are on Comprehensive Social Security Assistance. They can also enjoy the same services.

We will, of course, pay close attention to their special needs. I also hope that patients who are young and possess good academic qualifications can enhance their quality of life through participation in some activities or getting employment on the merits of the courses they have studied. As I just said, if their mental capacity enables them to engage in work which requires creativity or thinking, we hope they can turn such capacity into a skill to earn a living. We believe many of those who are severely disabled have potentials in various aspects that can be brought into full play, especially through the application of computer which can directly link up with such service or work providers. We can be such a provider. So, if they have such a need, we hope we can provide assistance to them.

DR FERNANDO CHEUNG (in Cantonese): *President, my supplementary question just now was about the 15 graduates who have suffered from MD and three of them possess university qualifications and have graduated. However, the three of them are still waiting at home. My question is: How will the Secretary provide assistance to them?*

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): I would like to say that the so-called quality of life and employment as mentioned by me can be achieved not necessarily at hostels. Rather, they can be achieved at home.

Dr CHEUNG, was your supplementary question just now about waiting for admission into institutions?

DR FERNANDO CHEUNG (in Cantonese): *No, President, I meant seeking employment when I said they were waiting. I did not mean they were waiting for admission into institutions.*

PRESIDENT (in Cantonese): In his supplementary question, Dr Fernando CHEUNG pointed out that these patients are unable to find employment. Secretary, please answer the question.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we will follow up their needs and see if we can do something in complement. On the one hand, we hope that they can find employment, but on the other, it is necessary for the employers to accept their quality of work. In this aspect, I believe accommodation by both parties is necessary.

PRESIDENT (in Cantonese): Fifth question.

DR YEUNG SUM (in Cantonese): *Madam President, among the six oral questions, the Secretary has to answer five, from abandoned cows to MD.....*

PRESIDENT (in Cantonese): You are not supposed to express your views now. Please ask your main question.

Proposals on Health Care Financing

5. **DR YEUNG SUM** (in Cantonese): *Madam President, regarding the authorities' proposals on health care financing and revisions to public medical care fees, will the Government inform this Council:*

- (a) *whether the authorities have drawn up a concrete timetable for announcing the proposals on health care financing, conducting public consultation on the proposals and implementing them; if they have, of the details; if not, the reasons for that;*
- (b) *as the comments made earlier by the Chairman and Chief Executive of the Hospital Authority (HA) about the modes of health care financing and increase in public medical care fees, which are still under consideration, have aroused concern among some members of the public, whether the authorities will strengthen their*

communication and understanding with the HA in releasing news about the modes of health care financing and revisions to public medical care fees; and

- (c) *whether the authorities will undertake to refrain from putting forward any proposals to increase fees for individual medical care items before announcing a comprehensive proposal on health care financing?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):
Madam President, first of all, I must thank Members' support for my work. This can increase my media exposure. (*Laughter*)

Madam President,

- (a) We are now in the process of collecting and analysing the relevant data in our study of health care financing arrangements, and carrying out detailed calculations with regard to the different options under consideration. As the issues involved and the calculations required are more complicated than expected, we have to further analyse the preliminary statistical data obtained and need more time to complete the study.
- (b) The Administration has been maintaining close liaison with the HA. For instance, government officials take part in the HA's decision-making process as members of the HA Board and I also hold working meetings with the Chairman and Chief Executive of the HA. Besides, the Chairman of the HA, as a member of both the Health and Medical Development Advisory Committee and its Health Care Financing Work Group, is directly involved in the discussion of the relevant issues. The HA has also played an important role in the review of public medical fees by providing assistance to the Administration in conducting studies on the service usage patterns of patients in public hospitals and clinics and in assessing the affordability of the general public. Therefore, there is no question of a lack of communication and understanding between the Administration and the HA.

The study of health care financing arrangements and the review of public medical fees are highly complicated. This, coupled with the widely varied public views, necessitates us to invite more public discussions of the issues in order to reach a consensus before we can take the matter forward. The HA, as a statutory body and Hong Kong's major public medical services provider, could make public its views on health care financing arrangements and the review of public medical fees, as these views can stimulate public discussions, which can in turn help us explore the way forward.

- (c) The public medical services currently provided by the HA are heavily subsidized and some users of the HA's services may not be aware of the actual costs of the services they received, which may in turn lead to abusive use of such services and wastefulness of medical resources. It is therefore a major objective of the current review of public medical fees to instil a more appropriate sense of value amongst the public by charging them an appropriate amount of medical fees so as to reduce instances of abuse and misuse.

While the review of public medical fees and the study of health care financing arrangements are different in terms of their objectives, the HA and the Administration will certainly take account of, and work along, the long-term direction of health care financing when putting forth proposals on public medical fees revision in future.

DR YEUNG SUM (in Cantonese): *Madam President, as a result of population ageing, the demand for health care services in Hong Kong is ever increasing. However, since the Basic Law provides that a low tax regime must be maintained, the HA has found it very difficult to make ends meet. As early as 1999, the Government already invited the Harvard University to conduct a study and put forward a health care financing scheme. Seven years has passed, but the Government has not yet put forward any health care financing scheme. Sources once disclosed that a scheme would be put forward before the summer holidays. But there has been further delay. Madam President, may I ask the Secretary whether the Chief Executive's desire for re-election is the main reason for delaying such a controversial scheme?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the simple answer is "no". We have actually held discussions with the Chief Executive on some tentative ideas and he also supports our current work. However, we still think that the scope of our work is not exhaustive enough and we have not yet grasped certain data. We must also note that once there are any changes in taxation revenue, we will need to conduct new studies on costs. Therefore, we hope to conduct further reviews in the next few months, especially on costs computation. We also hope to discuss the problems we will face in the next 20 years. Once we have completed all such work, we will promptly consult the public and brief the Legislative Council on the ideas and specific proposals.

MR ALBERT CHAN (in Cantonese): *President, health care financing will have a bearing on many medical schemes and their development. The development of many hospitals and medical schemes will certainly be revised drastically according to the decision on health care financing. Many medical institutions, such as Yan Chai Hospital and Hong Kong Adventist Hospital, have entered in various co-operation projects. There are also rumours that certain clinics may cease their existing services and provide private medical practitioners' out-call services instead. Many people are thus worried that even before there is any final decision on health care financing, medical institutions may have changed their modes of service delivery. Will the Secretary please say a few words on whether or not any individual medical institutions will radically alter their modes of service delivery even before there is a decision on health care financing, with the result that people may have to pay exorbitant medical fees?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I can remember, I did make it very clear last year that our hope was to maintain the existing public health care system. I also set out four major objectives of service delivery and said that we must satisfactorily achieve all these objectives. First, we must look after the underprivileged and poor patients. Second, we must be able to cope with accident and emergency cases as well as all unexpected problems. Third, we must continue to provide high-cost, high-tech and world-class medical services. Fourth, we must continue to be a large organization of medical and health care training, so as to

maintain our professional standards. These are the four sustainable and visible objectives we can achieve now.

At the same time, in regard to contracts, we and the HA share the view that the HA should maintain its existing service capacity, particularly the levels of out-patient consultation services. We have managed to maintain this all along.

When it comes to development, we do not think that Hong Kong's health care system should remain unchanged forever, characterized all the time by a simple division into the public and private sectors. We encourage public and private hospitals to enter into different types of co-operation projects, so as to offer the public more choices and ensure seamless articulation for referrals from private medical practitioners or private hospitals to the public-sector health care system. That way, more comprehensive services can be delivered. We encourage such co-operation.

MR ALBERT CHAN (in Cantonese): *President, the Secretary has not answered my supplementary question on whether or not patients will be made to pay exorbitant medical fees even before there is any decision on health care financing. I have mentioned, for example, that some clinics have plans to privatize their services. Will members of the public be made to pay exorbitant medical fees as a result?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have pointed out that there will be no reduction of the existing public-sector health care services. Therefore, even if we outsource certain services, the fees will remain roughly the same.

MISS CHAN YUEN-HAN (in Cantonese): *Two objectives are mentioned in the Secretary's reply to part (c) of the main question. First, it is about the study on health care financing. In addition, the Secretary also expresses the view that medical fee adjustments should serve the purpose of instilling a more appropriate sense of value amongst the public, so as to avoid instances of abuse and misuse. I really wish to ask the Secretary a question. We have been hearing such an argument for two to three years, but we have also been saying that fee increases should be introduced only after reaching an agreement on health care financing,*

or else we are bound to think that even before there is an agreement on health care financing, the Government is already using the issue as an excuse for fee increases. The study on health care financing may well discover that administration and other costs are too high. But this does not mean that medical fees and charges must be increased. However, even before there is a final decision, the Government has been using the issue as an excuse for three years. Am I correct in saying that by employing such a stalling tactic, the Secretary actually intends to raise all fees to his desired levels before he puts forward any financing scheme?

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

Madam President, as I have mentioned in the main reply, the fees of HA services and health care financing need not always be directly related. However, as I once told Members, we still hope that before we take any gradual moves to achieve our goals, the public can first realize our future health care burden and how we intend to adjust the fees concerned. This can let the public understand the future situation as early as we make the first fee adjustment. I do not intend to make any fee adjustments in the absence of any long-term goals.

MISS CHAN YUEN-HAN (in Cantonese): *President, the Secretary has not answered my question. He has been giving such a reply on the issue over the past three years in this Chamber. For a very long time, medical fees and charges have been rising incessantly. No fee was charged for accident and emergency service at the very beginning, but there is now a fee of \$100 and it may still increase. This gives us the impression of an "ambush". What difficulties are there that have prompted the Government to increase medical fees and charges before there is a decision on health care financing? This was the question I asked. The Secretary has not given any answer, President.*

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

Madam President, I suppose it is very difficult for the Government to stage an "ambush" because we must explain whatever we do to the Legislative Council and the general public very clearly. In regard to increases in medical fees and charges, I have repeatedly pointed out that some existing services are heavily subsidized, and even members of the public are not aware of their actual costs. For example, some patients (who are not in the majority, though) are reluctant to

go home. The reason is that their hospitalization expenses are far less than their living expenses at home. We therefore think that there must be some sort of appropriate adjustments to make them change their behaviour of utilizing health care services. But I have also promised that members of the public must first be told the future situation before any adjustments are made. Therefore, before the future situation is clear, we will not lightly propose any adjustments of the existing medical fees and charges.

MR LEE CHEUK-YAN (in Cantonese): *The Government may not have staged any ambush, but the Secretary has been very ambiguous in his reply. I hope that he can make a clarification. He has referred to the future situation, but I do not know what he actually means. Does it mean that the Government will increase medical fees and charges only after an overall health care financing scheme has been clearly set down? But I am worried that he may be talking about the future situation regarding people's health care burden instead of any health care financing scheme. Since he wants the public to see the future situation of their health care burden, he wants to start increasing medical fees and charges now. In other words, he is not talking about health care financing. Many Members have asked the Secretary to clarify whether he will refrain from adjusting any public medical fees and charges before the passage of a health care financing scheme. Will he refrain from doing so? If not, he is in fact trying to stage an ambush.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, since health care costs are constantly changing, I believe that even if we put forward a health care financing scheme, Members will need some time to discuss and understand the scheme before it can be passed. Therefore, I think that we must at least put forward a feasible health care financing scheme on meeting health care costs before we consider any adjustments of the existing fees and charges for HA services. I hope that members of the public can also realize this point.

Will our proposal on health care financing obtain a consensus and how much time will be required for discussions? It is very difficult for us to tell because both Legislative Council Members and the general public are required to participate. But I wish to assure Members that we will do detailed computations to ascertain our health care costs in the next 20 years and determine the levels of

fees and the method of charging. We will certainly give a clear account of all this at an appropriate time.

MR ANDREW CHENG (in Cantonese): *President, I wish to follow up the first supplementary question asked by Dr YEUNG Sum.*

According to academics and overseas experience, health care insurance may probably be the most effective long-term solution to population ageing. But such a solution may adversely affect the Government's popularity because members of the public must make contributions. May I ask the Secretary how he will allay people's worry that the Government may lack the political commitment and determination to implement such a forward-looking scheme that may nonetheless adversely affect the popularity of the Government, the Chief Executive and even the Secretary himself? How will he allay such worry?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, frankly speaking, my purpose of joining the Government is to do what I think must be done. Irrespective of the effect on my popularity or that of the Government, I think we must still do our job well. If we can offer a clear analysis of the issue and let members of the public see all the data clearly, I think society as a whole will be able to discuss the long-term development of our health care financing in a rational manner. I think this is what we as a responsible government should do. Therefore, I will not consider my personal interests in this regard. Society as a whole and all the 7 million Hong Kong people have to face the same problem. We will certainly put forward a detailed proposal at an appropriate time.

DR KWOK KA-KI (in Cantonese): *Madam President, despite the Secretary's claim that all the time since his assumption of office, he has been sincere in implementing health care reform, I must nonetheless express my worry about the progress so far. In regard to bringing the implementation of health care reform (most importantly, a health care financing scheme) to a more advanced stage of development during his term of office, that is, before 2007, how much confidence does the Secretary have? I have to ask all these questions because we do not even know when any document will be put forward, that is, we do not even know when it will be considered a politically opportune time to put forward such a*

document. Besides, how many more obstacles must be overcome before this goal can be achieved? If he keeps on delaying the matter and there are so many difficulties, how can the Secretary give us any confidence or any greater assurance that he can complete the task during his term of office?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): I wish to emphasize once again that my hope is to complete the task within my term of office. In the meantime, we are actively conducting the required data analyses. Therefore, we will certainly put forward a scheme at an appropriate time.

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

MR WONG KWOK-HING (in Cantonese): *President, when replying to Members' questions just now, the Secretary said that he would try as much as possible to complete the task within his term of office. May I ask the Secretary, via the President, whether he actually means that the task can be done before March next year?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, my term of office will expire on 30 June, which is why I hope to complete our task in the run-up to this date. I shall provide information in this regard at an appropriate time.

PRESIDENT (in Cantonese): Last oral question.

Ethnic Minority Students Taking Chinese Language Examination

6. **MR JAMES TO** (in Cantonese): *President, as there is currently only one curriculum for Chinese Language in the Hong Kong Certificate of Education Examination (HKCEE), both ethnic minority students in Hong Kong and Chinese-speaking local students have to study the same curriculum if they want to*

take this subject in the HKCEE. Some groups have pointed out that this arrangement is unfair as the curriculum is too difficult for non-Chinese speaking (NCS) ethnic minority students. In this connection, will the Government inform this Council:

- (a) whether it will suggest to local universities, post-secondary colleges or continuing education institutions that subject to the requirements of the courses, applicants be allowed to apply with their examination results of other Chinese subjects, such as the General Certificate of Secondary Education (GCSE) (Chinese) Examination which may be administered in 2007, in lieu of those of the current Chinese Language subject in the HKCEE, when assessing the enrolment applications from local students; and*
- (b) of the measures in place to help the ethnic minority students to overcome the language barrier in pursuing further studies in Hong Kong?*

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

- (a) First of all, we wish to clarify that our Chinese curriculum for primary and secondary schools is not designed just for native Chinese speakers. The current curriculum, with its language competency and cultural contents, is designed for all learners (irrespective of whether they are native Chinese speakers) who are learning the language for integration into the local Chinese society.

Our curriculum framework for Chinese Language for both primary and secondary schools, divided into key stages, is robust, open and flexible. It accommodates different extent of adaptations to the teaching contents and materials by schools in catering for a wide range of learner abilities and interests. The modified curriculum for senior secondary education under the new academic structure will be broader still to provide even greater flexibility for adaptations. Even if there is only one Chinese Language curriculum, there can be diversity in the related teaching contents and materials to cater for the needs of different students. In fact,

the promotion of school-based curricula is a fundamental approach applicable to every academic subject.

In order to assist schools that have admitted NCS students in developing the relevant school-based curricula, we will strengthen our provision of on-site support. In other words, the Education and Manpower Bureau will work together with the Chinese subject teachers of these schools to continue the development of different school-based curricula and teaching resources (including teaching strategies, contents and assessment designs, and so on) for NCS students, capitalizing on the practical experience of these teachers in teaching this group of students. Seen from the professional perspective of curriculum design, the curriculum supplement developed with the assistance of the Education and Manpower Bureau is essentially a curriculum blueprint for NCS students.

Regarding the admission standards, in order to ensure that our university students studying in publicly-funded programmes would meet the basic requirement with respect to their language proficiency, local students applying for programmes funded by the University Grants Committee (UGC) must obtain a pass in Advanced Supplementary Level Use of English and Chinese Language and Culture in the Hong Kong Advanced Level Examination (HKALE) before the institutions would consider their applications. That said, the UGC-funded institutions also accept alternatives to the "pass in Chinese Language" requirement.

Under the Joint University Programmes Admissions System (JUPAS), students, including NCS students, may use the HKCEE result in another language other than English in place of the Chinese Language result in order to apply for admission to undergraduate programmes. Institutions may also consider the students' applications according to their outstanding performance in other academic subjects. Besides, students may apply for admission with the UGC-funded institutions direct by using results other than those in the HKALE under the non-JUPAS route. In this regard, we understand that some institutions will consider applicants' performance in other Chinese Language examinations, such as the GCSE (Chinese) examination, under the non-JUPAS route.

We understand that individual NCS students would like to be provided with the avenue to attain alternative qualifications in Chinese in Hong Kong. In this regard, we are considering making necessary arrangements for interested NCS students to participate in the GCSE (Chinese) examination in Hong Kong beginning in 2007.

As for other non-publicly funded post-secondary colleges or continuing education institutions, we understand that they will also consider the applicants' language proficiency level and admit NCS students taking into account individual circumstances, course contents and the medium of instruction of the course. In addition, the Vocational Training Council (VTC), the Construction Industry Training Authority (CITA) and the Clothing Industry Training Authority (CLITA) are prepared to provide suitable flexibility in considering NCS students' applications.

In summary, the institutions, within the framework of existing public examinations, are already able to suitably allow flexibility for NCS students when applying the Chinese language requirement. We will convey the requests of the NCS students to the institutions so that they could take the circumstances of these students into account when exercising flexibility.

- (b) Apart from assisting schools to develop their school-based Chinese curriculum by making suitable adaptations to the central Chinese Language Curriculum Guide, we are exploring the feasibility of running Chinese Language Learning Support Centre(s) with the assistance of post-secondary institutions, for the purpose of providing further support for NCS students in the learning of Chinese. Tutorial classes may be arranged after school and/or during school holidays in the Chinese Language Learning Support Centre(s).

Besides, we have been identifying schools to be designated for focused support by this Bureau in serving NCS students. We intend to enhance our support for these schools from the 2006-07 school year onwards by:

- (i) providing funding for the schools to extend the summer Bridging Programme currently confined to incoming ethnic minority Primary One entrants, to cover also ethnic minority students proceeding to Primary Two, Primary Three and Primary Four in order to help them consolidate what they have learnt at Key Learning Stage 1 and to prepare for the transition to Key Learning Stage 2;
- (ii) providing funding for the schools to lengthen the duration of the six-month Initiation Programmes for newly arrived children (including newly arrived ethnic minority children) to one year in order to enhance the readiness of these children to receive formal schooling; and
- (iii) commissioning post-secondary institutions to run professional development programmes on teaching of Chinese Language to NCS students for teachers of the designated schools.

Apart from assisting NCS students in learning Chinese, we will enhance the access of these students to the Career-oriented Curriculum piloting in secondary schools and the future Career-oriented Studies under the new senior secondary curriculum, by offering some courses in English subject to demand.

Besides, the Hong Kong Institute of Vocational Education (IVE) of the VTC uses English as the medium of instruction for its post-secondary courses and NCS students who meet the basic entrance requirements may apply for admission to the IVE programmes on a competitive basis. To provide more vocational education and training opportunities to NCS students, the VTC will offer additional craft and foundation level courses specifically targeted at NCS students in the 2006-07 school year at both IVE and the VTC's industry-specific Training Centres. As regards the CITA, it also offers some vocational training courses in English, particularly the occupational safety courses.

For courses which are only conducted in Chinese for practical reasons (for example, only Chinese will be used in the actual workplace concerned), the relevant training institutions will try to,

as far as possible, supplement the courses with English reading materials/assessment for NCS students who can communicate in Chinese orally but are not fully literate. Besides, the VTC, CITA and CLITA are happy to meet and discuss with the non-governmental organizations and ethnic minority concern groups in order to understand and meet the training needs of the ethnic minorities.

MR JAMES TO (in Cantonese): *President, in part (a) of the main reply the Government states that under the JUPAS, students may use the HKCEE result in another language other than English — which is currently French — in place of the Chinese Language result in order to apply for admission to undergraduate programmes. However, for the NCS ethnic minority students who are mostly of South Asian descent, most of them do not know French and so this arrangement does not help. As for part (b) of the main question which I asked about the measures in place to help the ethnic minority students overcome the language barrier in pursuing further studies in Hong Kong, the Government has not mentioned any improvement made in this respect. The Legislative Council Panel on Education held a meeting last Monday. May I ask if the Government will give serious thoughts to our demand to devise another Chinese Language curriculum for the ethnic minority students, bearing in mind that there are Syllabus A and Syllabus B in English Language, to overcome the language barrier in pursuing further studies in Hong Kong?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, what Mr James TO has said are actually two issues. The first one is on the question of the choice of language for university entrance examination and whether or not there will be Syllabus A or Syllabus B or any special examination. The second one is on the question of curriculum. I have said very clearly that the curriculum of Chinese Language is marked by diversity as it is designed for all learners (irrespective of whether they are native Chinese speakers) who are learning the language. Even for those students who are native Chinese speakers, they may encounter problems in learning Chinese and so schools should try to meet the needs of students flexibly.

As for university entrance examination, the universities concerned have autonomy in setting the standards of the entrance examinations. Currently, the

universities require that applicants should have a pass in English Language and Chinese Language. However, the universities also have a great flexibility in this. If the candidate fails to satisfy the requirement in Chinese Language, an alternative channel may be open to him for admission or they may not be required to sit for the Chinese Language examination in the Advanced Level Examination or any other examinations. The university concerned will take this into consideration. An example is the International Baccalaureate examination which is accepted by the universities.

PRESIDENT (in Cantonese): Altogether there are eight Members waiting for their turns to ask questions. Will Members who have the chance to ask supplementary questions be as concise as possible.

MR CHEUNG MAN-KWONG (in Cantonese): *President, there may be flexibility in curriculum, but there is no flexibility in passing an examination. May I ask if the Government has any figures which show the number of local students of South Asian descent who have passed the Advanced Level Chinese examination and are admitted into local universities? It follows that even if a curriculum in Chinese which caters for their standard of Chinese is devised or if the GSCE is to be introduced, recognition by the universities is required. Will the Government discuss this matter with the universities? While the autonomy of the universities should be respected, I hope that the universities can recognize these alternative Chinese Language examinations for admission purposes so that these school children of South Asian descent may have a chance, at least by passing an examination in Chinese language with less stringent requirements and hence meet university entrance requirements.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, as I have stated in the main reply, we will convey such views to the universities. But what is the point of having an examination in Chinese if it is designed to be so easy that everyone who takes it will pass it?

MR CHEUNG MAN-KWONG (in Cantonese): *President, the Secretary has completely distorted my point. My supplementary question is about whether or not an examination in Chinese Language which has a standard acceptable to the*

universities can be designed and not an examination which everyone can pass. It is not right if the Secretary gives a reply to this supplementary question after arbitrarily distorting its meaning.

PRESIDENT (in Cantonese): Mr CHEUNG, which part of your supplementary question has not been answered?

MR CHEUNG MAN-KWONG (in Cantonese): *The Secretary has not answered the part that I have said about the standard of the Chinese Language examination for university entrance which is acceptable to the universities.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, actually, the new examination in Chinese Language which will be introduced in the 2006-07 school year is to be divided into stages and it can clearly show the proficiency of the students and it is not as simple as an examination on simple stuff like the alphabets.

MR JASPER TSANG (in Cantonese): *President, the Secretary stresses very much school-based curriculum and in order to cater for the diversity in students, assistance is given to schools and teachers to develop a Chinese Language curriculum of their own in schools to meet students' needs. However, the Secretary will of course know that it is very difficult to rely on schools and teachers alone to adjust and develop their own curriculum, even with the unrelenting assistance of the Education and Manpower Bureau. For if this is not the case, there would be no need to set up the centralized Curriculum Development Committee to study curriculum development as a whole. Apart from giving support to schools to make such adjustments in curriculum, will the Government consider designing a centralized curriculum for Chinese Language specifically for local students whose mother tongue is not Chinese?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Actually, our curriculum can achieve this already. As Mr TSANG has said,

our curriculum is diversified and able to cater for the needs of all students and so there is no need to design another curriculum. As for helping those NCS students, we agree to this idea. Therefore, we think some designated schools should be allocated resources to help these students and also the teachers so that they can teach the students well.

MS EMILY LAU (in Cantonese): *President, part (a) of the main question mentions that some groups, mostly ethnic minority groups, have pointed out that this Chinese Language curriculum is very difficult for NCS ethnic minority students and so this arrangement is not fair. May I ask the Secretary whether any internal assessment has been undertaken by the Government to see if this may be a contravention of racial discrimination law? I understand that we have not yet enacted any law on this and the legislative work on this has been delayed for a long time. Do these arrangements constitute any racial discrimination? This problem has not been properly dealt with despite the passage of time. Is it because the Government does not agree that the Home Affairs Bureau should submit the bill on racial discrimination to the Legislative Council?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Education and Manpower Bureau is very much opposed to racial discrimination and very supportive of the proposal to enact a law to prohibit racial discrimination. In this regard, I think Ms Emily LAU should rest assured. As for the question which Ms LAU has asked, that is, whether or not there is any racial discrimination when we apply a different approach to handling these students, we have consulted the Department of Justice and the advice given is that there should not be any problem with it, that is to say, if other students ask us why we allocate additional funds to these schools or give extra help to this group of students, we think that there should not be any problem.

MS EMILY LAU (in Cantonese): *President, the Secretary has not answered my supplementary question. I asked whether it was due to the delays in perfecting this arrangement that the authorities did not dare to introduce the bill on racial discrimination to this Council.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the bill concerned is not within the purview of the Education and Manpower Bureau and so I cannot say whether the bill can be submitted to the Legislative Council in the near future or after a long time.

PRESIDENT (in Cantonese): We have spent 17 minutes on this question. Now the last supplementary question.

MR ALBERT CHENG (in Cantonese): *President, people from the middle class in Hong Kong like to send their children to study in local international schools or schools in the United Kingdom or other places for secondary school education. When these students return to Hong Kong and apply for admission into the local universities, they will get an exemption with respect to the Chinese Language requirement. However, students of South Asian descent currently studying in Hong Kong do not get this kind of exemption. Is this not racial discrimination? Does the Government have any figures to tell us how many students of South Asian descent have been given such an exemption and hence admitted to the eight local universities?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, if it is about the non-JUPAS route, that is, applications not made under JUPAS, all students are required to have a pass in Chinese Language and they must take an examination in the Chinese Language. However, the examination they sit for may not be the one held in Hong Kong but that in a foreign country. Therefore, I have also said that for those local NCS students, they can sit for this examination and get an exemption.

MR ALBERT CHENG (in Cantonese): *President, has the Administration told the students of South Asian descent that they can do this?*

PRESIDENT (in Cantonese): This is not part of the supplementary question you asked just now.

MR ALBERT CHENG (in Cantonese): *It does not matter. The Secretary must have heard it. Thank you, President. (Laughter)*

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Media Using Teenagers to Promote Sex and Pornography

7. **MR TAM YIU-CHUNG** (in Chinese): *President, the publication of photographs of a 14-year-old girl in sexy poses on the front cover and a number of inside pages in Issue No. 752 of Easyfinder magazine has aroused public concerns. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints about the above incident received so far, and the follow-up actions taken by the relevant departments and the current progress;*
- (b) *of the number of complaints received by the authorities about teenagers under the age of 16 being used by the media to promote sex and pornography in each of the past three years, and the respective numbers of those which allegedly involved breaches of the Prevention of Child Pornography Ordinance (Cap. 579) and were referred to the police for investigation, and those in which offenders were convicted of breaching the Control of Obscene and Indecent Articles Ordinance (Cap. 390) (COIAO), as well as the maximum penalty imposed in the conviction cases; and*
- (c) *whether it will step up efforts to prevent teenagers under the age of 16 from being used by the media to promote sex and pornography, including conducting a review of the existing legislation; if so, of the details; if not, the reasons for that?*

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

- (a) The Television and Entertainment Licensing Authority (TELA) has received 140 complaints about the front cover and the related content of Issue No. 752 of *Easyfinder*. Since the article concerned may have breached the Prevention of Child Pornography Ordinance (Cap. 579), the TELA referred the article and all the complaints received to the police on 22 June 2006 for follow-up action.

The Kwun Tong District Crime Unit has taken over the case in question for investigation and it has approached the parties concerned to gather more information. The case is still under investigation.

- (b) In the past three years, apart from the above case about Issue No. 752 of *Easyfinder*, the TELA received only one complaint about child pornography in December 2005. The TELA also referred it to the police for follow-up action.

Since the Prevention of Child Pornography Ordinance came into force in December 2003, the number of cases investigated by the police for suspected breaches of the Ordinance is as follows:

<i>Offence</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006 (first half)</i>
Possessing child pornography	3	29	6	4
Publishing child pornography	-	2	4	-
Making/producing child pornography	-	1	2	1
Importing child pornography	-	-	-	1
Total	3	32	12	6

Since the enactment of the Prevention of Child Pornography Ordinance, 52 persons suspected of breaching the Ordinance have been arrested. Among them, 33 were charged after the police's investigation with 26 convicted. Their sentences included imprisonment and/or fine, detention in detention centres, community service orders or probation orders, the highest penalty of which was 33-month imprisonment. For the 19 persons not charged by the police, three were dealt with by way of the Police

Superintendent Discretion Scheme, 12 were released unconditionally and four are still being investigated.

Before the enactment of the Prevention of Child Pornography Ordinance in December 2003, all complaints about pornographic articles were handled by the TELA under the COIAO (Cap. 390). From January 2003 to December 2003, the TELA did not receive any complaints about child pornography. During the same period, the cases in breach of the COIAO were not related to child pornography.

- (c) Hong Kong has all along been committed to fulfilling the obligations under the United Nations Convention on the Rights of the Child and the International Labour Convention No. 182, to protect children from sexual exploitation in different forms, and has introduced the Prevention of Child Pornography Ordinance. The Prevention of Child Pornography Ordinance has been in force for more than two years. The Administration will continue to closely monitor its implementation.

Apart from vigorous law enforcement, teaching children to protect themselves is also an effective measure to prevent them from being exploited in the production of pornographic articles and other forms of sexual activities. In view of this, the police have undertaken to promote public education about child protection laws and procedures of handling such cases through seminars and talks at the district level. The public are encouraged to report such illegal activities, and victims to seek professional assistance. School Liaison Officers in each police district will continue to keep in touch with schools with a view to raising students' awareness of self-protection.

Furthermore, the TELA regularly mounts publicity and education activities to enhance the understanding of the public, particularly students, of the COIAO. These include holding contests of meritorious websites, funding non-governmental organizations' publicity programmes in districts and schools, co-organizing competitions with Radio Television Hong Kong, and holding roving exhibitions and school talks.

Rent Assistance Cases

8. **MISS CHAN YUEN-HAN** (in Chinese): *President, will the Government inform this Council of:*

- (a) *the current number of tenants receiving rent assistance, broken down by the rate of rent reduction granted; and*
- (b) *the current number of applications for rent assistance being processed*

in each public housing estate?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): President, as at 28 June 2006, 13 991 public housing tenants were receiving rent assistance provided by the Housing Authority. Of them, 13 557 tenants (about 97%) were given 50% rent reduction and 434 (about 3%) were given 25%. In addition, 472 applications for rent assistance are being processed by the Housing Department. Breakdown of these figures by estate is at Annex.

Annex

The Housing Authority's Rent Assistance Scheme

Number of Recipients and Applications as at 28 June 2006

<i>Estate</i>	<i>Number of Households Given 50% Rent Reduction</i>	<i>Number of Households Given 25% Rent Reduction</i>	<i>Number of Applications</i>
Kwai Shing East Estate Interim Housing	4	0	0
Long Bin Interim Housing	1	0	0
Po Tin Interim Housing	8	0	0
Shek Lei (II) Estate Interim Housing	1	0	0
Ap Lei Chau Estate	58	0	2
Butterfly Estate	150	12	9
Cheung Ching Estate	81	1	2

<i>Estate</i>	<i>Number of Households Given 50% Rent Reduction</i>	<i>Number of Households Given 25% Rent Reduction</i>	<i>Number of Applications</i>
Cheung Fat Estate	21	0	0
Cheung Hong Estate	136	1	1
Cheung Wang Estate	48	4	1
Choi Hung Estate	238	0	6
Choi Ha Estate	6	0	0
Choi Fai Estate	26	1	2
Cheung Hang Estate	54	3	3
Choi Ming Court	66	7	0
Chung On Estate	45	0	3
Cheung Kwai Estate	13	0	1
Chun Shek Estate	32	0	1
Chak On Estate	52	0	0
Cheung On Estate	20	0	0
Cheung Shan Estate	17	0	0
Cheung Wah Estate	43	0	0
Choi Wan (I) Estate	61	3	0
Choi Wan (II) Estate	22	0	2
Choi Yuen Estate	80	2	0
Chuk Yuen North Estate	9	0	2
Chuk Yuen South Estate	125	2	0
Easeful Court	4	0	0
Fu Cheong Estate	266	18	7
Fortune Estate	101	4	1
Fu Heng Estate	39	0	7
Fuk Loi Estate	107	0	0
Fu Shan Estate	28	0	0
Fu Shin Estate	67	2	23
Fung Tak Estate	14	0	1
Fu Tai Estate	110	4	4
Fu Tung Estate	24	1	0
Fung Wah Estate	5	0	0
Grandeur Terrace	5	0	0
Hoi Fu Court	151	2	0
Hung Hom Estate	26	4	3

<i>Estate</i>	<i>Number of Households Given 50% Rent Reduction</i>	<i>Number of Households Given 25% Rent Reduction</i>	<i>Number of Applications</i>
Hoi Lai Estate	2	0	0
Hin Keng Estate	3	0	0
Hing Man Estate	24	0	4
Ho Man Tin Estate	315	9	4
Heng On Estate	17	0	0
High Prosperity Terrace	17	3	3
Hing Tin Estate	5	0	0
Hau Tak Estate	25	0	0
Hing Tung Estate	39	0	2
Hong Tung Estate	44	0	0
Hing Wah (I) Estate	88	8	0
Hing Wah (II) Estate	110	0	0
Ka Fuk Estate	23	0	0
Kai Tin Estate	59	1	4
Kwai Chung Estate	118	5	6
Kwai Fong Estate	201	9	4
Kwong Fuk Estate	52	0	11
Kwai Hing Estate	14	0	1
King Lam Estate	35	0	0
Kin Ming Estate	6	1	0
Ko Cheung Court	2	0	0
Kam Peng Estate	2	0	0
Kwai Shing East Estate	219	11	0
Kin Sang Estate	12	2	0
Kwai Shing West Estate	81	0	11
Kwong Tin Estate	34	2	4
Kwong Yuen Estate	21	1	1
Kai Yip Estate	147	3	5
Ko Yee Estate	41	1	1
Lai On Estate	46	0	1
Lei Cheng Uk Estate	29	0	0
Lee On Estate	143	2	5
Lok Fu Estate	34	0	1
Lung Hang Estate	66	0	4

<i>Estate</i>	<i>Number of Households Given 50% Rent Reduction</i>	<i>Number of Households Given 25% Rent Reduction</i>	<i>Number of Applications</i>
Lai King Estate	63	1	10
Leung King Estate	67	2	3
Lai Kok Estate	84	0	5
Lei Muk Shue (I) Estate	121	12	3
Lei Muk Shue (II) Estate	160	6	0
Long Ping Estate	56	0	3
Lei Tung Estate	86	0	2
Lai Yiu Estate	61	1	1
Lung Tin Estate	6	0	0
Lok Wah North Estate	43	0	0
Lok Wah South Estate	243	1	8
Lek Yuen Estate	59	0	2
Lei Yue Mun Estate	146	20	5
Model Housing Estate	2	0	1
Ma Hang Estate	24	2	0
Mei Lam Estate	54	0	2
Mei Tung Estate	12	1	0
Ming Tak Estate	19	0	2
Ma Tau Wai Estate	46	0	1
Nam Cheong Estate	19	0	0
Nga Ning Court	7	0	1
Nam Shan Estate	42	0	0
Lower Ngau Tau Kok (II) Estate	63	0	1
Ngan Wan Estate	1	0	0
Oi Man Estate	85	2	2
On Ting Estate	80	2	1
Oi Tung Estate	148	3	0
On Yam Estate	54	3	2
Pok Hong Estate	11	0	1
Po Lam Estate	38	1	0
Po Tin Estate	14	0	1
Ping Shek Estate	111	0	3
Pak Tin Estate	159	6	2
Ping Tin Estate	161	2	9

<i>Estate</i>	<i>Number of Households Given 50% Rent Reduction</i>	<i>Number of Households Given 25% Rent Reduction</i>	<i>Number of Applications</i>
Po Tat Estate	260	28	19
Sun Chui Estate	125	0	5
Shun Lee Estate	104	1	1
Sha Kok Estate	135	3	3
Shan King Estate	174	9	11
Shek Kip Mei Estate	84	0	0
Shek Lei (I) Estate	46	0	1
Shek Lei (II) Estate	146	5	1
Sheung Lok Estate	35	0	0
Sau Mau Ping Estate	495	28	24
Shun On Estate	106	1	4
Shek Pai Wan Estate	243	2	3
Shui Pin Wai Estate	31	2	4
Sam Shing Estate	30	1	2
Siu Sai Wan Estate	64	0	0
Shun Tin Estate	120	0	2
Sheung Tak Estate	154	8	0
Sun Tin Wai Estate	63	0	5
So Uk Estate	69	0	4
Sai Wan Estate	11	0	0
Shek Wai Kok Estate	93	0	0
Shek Yam Estate	114	9	5
Shek Yam East Estate	44	1	2
Tai Ping Estate	4	0	0
Tsz Ching Estate	197	17	0
Tin Chak Estate	47	0	3
Tsing Yi Estate	5	0	0
Tai Hing Estate	151	3	6
Tai Hang Tung Estate	74	0	1
Tin Yan Estate	14	1	1
Tin King Estate	17	1	0
Tsz Lok Estate	160	14	7
Tsui Lok Estate	35	1	0
Tsui Lam Estate	38	1	0

<i>Estate</i>	<i>Number of Households Given 50% Rent Reduction</i>	<i>Number of Households Given 25% Rent Reduction</i>	<i>Number of Applications</i>
Tsz Man Estate	46	1	4
Tin Heng Estate	212	17	8
Tin Yiu (I) Estate	48	0	1
Tin Yiu (II) Estate	27	0	2
Tin Ping Estate	16	0	0
Tsui Ping North Estate	55	0	10
Tsui Ping South Estate	53	0	1
Tin Shui (I) Estate	40	0	2
Tin Shui (II) Estate	41	1	3
Tsui Wan Estate	16	0	1
Tung Tau (I) Estate	13	1	0
Tung Tau (II) Estate	33	0	0
Tak Tin Estate	66	3	4
Tin Tsz Estate	42	0	3
Tin Wan Estate	73	5	5
Tin Wah Estate	69	1	2
Tai Wo Hau Estate	111	1	4
Tai Wo Estate	47	1	3
Tai Yuen Estate	36	1	12
Tin Yat Estate	131	6	5
Tin Yuet Estate	112	0	4
Tsz Hong Estate	164	15	6
Un Chau Estate	101	4	0
Upper Ngau Tau Kok Estate	128	6	2
Upper Wong Tai Sin Estate	153	2	13
Wah Fu (I) Estate	117	1	1
Wah Fu (II) Estate	49	0	1
Wah Lai Estate	43	2	3
Wo Che Estate	132	1	8
Wong Chuk Hang Estate	35	0	0
Wan Hon Estate	18	1	0
Wu King Estate	73	3	2
Wah Kwai Estate	30	0	1
Wo Lok Estate	55	0	1

<i>Estate</i>	<i>Number of Households Given 50% Rent Reduction</i>	<i>Number of Households Given 25% Rent Reduction</i>	<i>Number of Applications</i>
Wah Ming Estate	36	1	0
Wah Sum Estate	17	0	0
Wan Tsui Estate	87	0	0
Wang Tau Hom Estate	44	0	4
Lower Wong Tai Sin (I) Estate	25	0	3
Lower Wong Tai Sin (II) Estate	114	2	0
Wan Tau Tong Estate	15	0	1
Yau Tong Estate	163	14	3
Yau Oi Estate	127	1	6
Yiu On Estate	9	0	1
Yung Shing Court	35	2	0
Yiu Tung Estate	83	2	2
Yat Tung (I) Estate	90	8	2
Yat Tung (II) Estate	20	0	0
Yue Wan Estate	36	1	0
Total	13 557	434	472
	13 991		

Accidents Caused by Lifts and Escalators

9. **MR WONG KWOK-HING** (in Chinese): *President, it was reported that in a recent accident in Japan, a lift suddenly moved upward while a teenager was entering the lift. Unable to escape in time, the teenager was crushed to death. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of accidents caused by failures of lifts and escalators which resulted in casualties in each of the past five years, and among such accidents, the number of those involving violations of the Lifts and Escalators (Safety) Ordinance (the Ordinance) and/or the Lift Owners' Guidebook;*
- (b) *of the respective numbers of lifts and escalators in Hong Kong, and the frequency of periodic maintenance, examination and testing to*

be performed each year on a lift or an escalator as required by the legislation;

- (c) of the number of competent lift workers (competent workers) currently employed by registered lift contractors;*
- (d) of the number of cases in which competent workers were called to the rescue of people trapped in lifts in each of the past five years; and*
- (e) based on the current ratios of lifts/escalators to competent workers, of the amounts of time a competent worker may spend on rescue operations and on periodic maintenance, examination and testing respectively, and whether the Government will stipulate the minimum amount of time a competent worker should engage in periodic maintenance, examination and testing of lifts/escalators; if so, when such a stipulation will be made; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
President,

- (a) The numbers of accidents caused by failures of lifts and escalators which resulted in casualties in the past five years are as follows (the numbers in brackets indicate fatal accidents whereas the rest refer to injury accidents):

<i>Year</i>	<i>Number of accidents involving lifts</i>	<i>Number of accidents involving escalators</i>
2005	19	8
2004	11 + (1*)	1
2003	14	5
2002	12 + (1)	3
2001	20	2

* The Court is inquiring whether violation of the Ordinance was involved in the accident. Other than that, all the above cases involving lifts and escalators in the past five years are not violations of the Ordinance and/or the Lift Owners' Guidebook.

- (b) As at the end of May 2006, there were a total of 47 313 lifts and 6 646 escalators covered under the Ordinance. The cycles of periodic maintenance, periodic examination and periodic testing for lifts and escalators as provided under the Ordinance are detailed as follows:
- (i) For periodic maintenance, every lift and escalator shall be inspected, cleaned, oiled and adjusted by a registered lift contractor or a registered escalator contractor at intervals not exceeding one month. The Code of Practice for Lift Works and Escalator Works (the Code) drawn up by the Electrical and Mechanical Services Department (EMSD) further requires lift contractors and escalator contractors to carry out the above maintenance services at least once every two weeks or as specified in the guidelines of the manufacturer (whichever interval is shorter).
 - (ii) For periodic examination, every lift shall be thoroughly examined by a registered lift engineer at intervals not exceeding 12 months, and every escalator shall be thoroughly examined by a registered escalator engineer at intervals not exceeding six months.
 - (iii) For periodic testing, the safety equipment of every lift shall be tested by a registered lift engineer at intervals not exceeding 12 months by the operation of the same without any load in the lift, and at intervals not exceeding five years by the operation of the same with a load in the lift. The safety equipment of every escalator shall be tested by a registered escalator engineer at intervals not exceeding 12 months by the operation of the same without any load on the escalator.
- (c) As at the end of December 2005, there were a total of 4 820 competent lift and escalator workers employed by registered lift and escalator contractors. Of these, 4 324 were both competent lift and competent escalator workers, 379 competent lift workers only, and 117 competent escalator workers only.

- (d) Rescue operations for people trapped in lifts are normally carried out by competent lift workers or firemen. The EMSD has no record of cases in which only competent lift workers were called to the rescue. According to the EMSD, the numbers of cases (excluding cases of main power supply failure) involving people being trapped in lifts and causing injuries over the past five years are as follows:

<i>Year</i>	<i>Number of accidents</i>
2005	9
2004	7
2003	1
2002	5
2001	7

- (e) The amounts of time a competent worker may spend on rescue operations and on periodic maintenances, examinations and testings depend on the actual needs and the arrangements of the registered lift contractors or registered escalator contractors, which may vary from one contractor to another.

As expounded in (b) above, the cycles of periodic maintenance, examination and testing of lifts and escalators are provided for in the Ordinance and the Code. Registered lift contractors and registered escalator contractors are required by the Code to make proper arrangements with regard to the working hours of their workers. The Government considers that the current practice of giving contractors the flexibility to assign manpower and working hours in the light of their own circumstances, subject to the compliance of the periodic maintenance, examination and testing requirements stipulated by law, is appropriate and effective. Therefore, there is no need to stipulate the minimum amount of time a competent worker should engage in the above areas of work.

Mainland Vegetables Supplied to Hong Kong

10. **MR FRED LI** (in Chinese): *President, regarding vegetables supplied to Hong Kong from the Mainland, will the Government inform this Council:*

- (a) *whether it is aware that some traders have sourced vegetables directly from various markets in the Pearl River Delta Region for sale in Hong Kong, instead of from registered mainland farms that supply vegetables to Hong Kong;*
- (b) *as the vegetables concerned may be transported to Hong Kong in sealed trucks, and the traders may declare to the Customs and Excise Department (C&ED) that they are vegetables for "export", whether it has estimated the daily quantity of vegetables imported to Hong Kong by such means;*
- (c) *whether random inspections have been conducted on these vegetables; if so, of the number of samples taken in each of the past three years;*
- (d) *whether actions have been taken against traders selling vegetables so imported; if so, of the number of actions taken and prosecutions instituted in each of the past three years, as well as the penalties imposed in the conviction cases; and*
- (e) *as the vegetables mentioned above may have escaped the inspection and testing by the Government, how it can ensure that such vegetables comply with food hygiene standards in Hong Kong?*

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

- (a) During the checking of vehicles transporting vegetables from the Mainland at entry point, the Food and Environmental Hygiene Department (FEHD) has discovered vegetables originating from non-registered mainland vegetable farms or collection stations.
- (b), (c) and (d)

A great majority of vegetables imported on land route are transported with non-sealed trucks via Man Kam To Control Point.

Sometimes there are vegetables transported with sealed trucks equipped with refrigerating device. However, all of them are processed vegetables, such as washed, sliced or cut.

All cargos entering Hong Kong from the Mainland via land route must undergo importation procedures according to the law. There is no alternative treatment for cargos to be "re-exported". According to records, the C&ED has not discovered any traders transporting vegetables via land route with sealed trucks into Hong Kong who claimed that the vegetables were for "export" on the manifest. Therefore, we think that no vegetables are imported into Hong Kong with this method. Besides, we do not have any record of such vegetables which were declared to be for export but were sold in Hong Kong in fact.

Although no case of using sealed trucks to transport vegetables into Hong Kong but claimed to be for export has been discovered, according to information from the C&ED, there are traders using sealed trucks to transport vegetables without making correct declaration on the manifest. In 2005, the C&ED did not discover any cases of transporting vegetables with sealed trucks without correct declaration on the manifest. From January to June 2006, two such cases were discovered, involving 5 040 kg of vegetables.

Staff of the C&ED in Man Kam To Control Point has always maintained close co-operation with the FEHD and conduct joint operation from time to time. When imported vegetables suspected to have problems are discovered, the vegetables will immediately be handed over to the FEHD to follow up. Since January 2005, the authority has detained 24 trucks containing vegetables with problems and destroyed 10 tonnes of such vegetables.

- (e) Currently, all incoming trucks transporting vegetables from the Mainland must be equipped with certifications issued by relevant mainland import and export inspection and quarantine authority to certify that the vegetables contained in the truck are originated from registered farms or collection stations in the Mainland.

At Man Kam To import control point, the FEHD checks the certification issued by the relevant import and export inspection and quarantine authority in the Mainland. Upon checking, if the vegetables are discovered to be originated from non-registered vegetable farms or collection stations, the vegetables will be detained by the FEHD until their pesticide residue test results are satisfactory. Besides, we also co-operate with the Mainland to fight against traders importing vegetables from non-registered farms. Whenever the FEHD discovers any trucks transporting such kind of vegetables, the FEHD will record the data of these trucks and transfer such information for the mainland authorities to follow up.

The FEHD will continue to take samples of vegetables of pesticide residue testing at import, wholesale and retail levels, in order to ensure that the vegetables sold in the market are safe and suitable for human consumption.

Appointment of Judges

11. **MR MA LIK** (in Chinese): *President, Article 48(6) of the Basic Law stipulates that "the Chief Executive of the Hong Kong Special Administrative Region to appoint or remove judges of the courts at all levels in accordance with legal procedures"; and Article 88 stipulates that "judges of the courts of the Hong Kong Special Administrative Region shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors". In this connection, will the Government inform this Council:*

- (a) *in relation to the "judges" referred to in the above provisions, of the existing part-time and full-time judicial officers in the Court of Final Appeal, the High Court, District Courts, Magistrates' Courts and other special Courts in the Hong Kong Special Administrative Region (SAR) who are included and excluded respectively in the context; and*
- (b) *of the legal basis for such differentiation?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President,

- (1) The Basic Law distinguishes between Judges whose appointment and removal are provided for under Articles 88 and 89 of the Basic Law and other members of the Judiciary.
- (2) Article 88 provides that Judges of the Courts of the SAR shall be appointed by the Chief Executive on the recommendation of an independent commission. This is the Judicial Officers Recommendation Commission (JORC), established under the Judicial Officers Recommendation Commission Ordinance (Cap. 92). The Chief Executive's power to appoint is also referred to in Article 48(6). Consistently with Article 88, various statutory provisions provide for their appointment. The Judges referred to in Article 88 are the full-time Judges of the District Court and the High Court and the Judges of the Court of Final Appeal. They may only be removed from office on the grounds, and in accordance with the procedures, described in Article 89 and Article 90 (where applicable).
- (3) Article 91 of the Basic Law provides that the previous system of appointment and removal of members of the Judiciary other than Judges shall be maintained. The members of the Judiciary referred to in Article 91 include:
 - (i) full-time judicial officers apart from the Judges referred to in (b) above, such as permanent Magistrates; and
 - (ii) part-time Judges and judicial officers, such as Recorders and Deputy Judges and judicial officers appointed on a temporary basis, who are drawn from practising barristers and solicitors.

Consistently with Article 91, various statutory provisions provide for their appointment. In accordance with the statutory provisions, appointments of full-time judicial officers referred to in (i) and appointments of Recorders are made by the Chief Executive on the recommendation of the JORC; appointments of Deputy Judges and judicial officers on a temporary basis are made by the Chief Justice.

- (4) The legal basis for the differentiation between Judges appointed under Article 88 of the Basic Law and members of the Judiciary other than such Judges is contained in the Basic Law, particularly Articles 88 and 91, and in the relevant statutory provisions. Article 81 para 2, which provides that the judicial system previously practised in Hong Kong shall be maintained except for those changes consequent upon the establishment of the Court of Final Appeal, is also relevant.

Pilot Telephone Booking System for General Out-patient Clinics

12. **DR FERNANDO CHEUNG** (in Chinese): *President, the Hospital Authority (HA) implemented a pilot telephone booking system in five general out-patient clinics (GOPCs) in Hong Kong East in November last year. Patients with episodic illnesses may book appointments by telephone for consultation and treatment on the same day or the next day. The system was extended to the remaining seven GOPCs on Hong Kong Island in January this year. In this connection, will the Government inform this Council whether it knows:*

- (a) *the number of persons who have made use of the telephone booking system and obtained discs for consultation so far, and*
 - (i) *a breakdown of this number by age groups (above 60, 45 to 60, below 45) and their respective percentages; and*
 - (ii) *the percentage of this number in the total number of persons who have obtained discs in the same period;*
- (b) *the respective current numbers of discs reserved daily, by each clinic involved in the pilot system for patients who use the telephone booking system and for those who come in person, and the respective average daily numbers of patients who use the telephone booking system and those who come in person, but are not given discs;*
- (c) *the detailed results of the assessment of the pilot system, including whether there is no recurrence of the situation in which patients queue in person for discs in the small hours; and*

- (d) *when the HA plans to extend the telephone booking system to the other GOPCs under its management?*

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

- (a) According to the statistical data of the HA, the average usage rate of the telephone booking system is close to 50% since its trial implementation at 12 GOPCs on Hong Kong Island in January this year, and in terms of percentage, people of different age groups who have used this system are on the rise. Take the number of people who have used the booking service in February and June this year as an example, the statistical data on the use of the service for these two months are as follows:

<i>Age Group</i>	<i>February 2006</i>			<i>June 2006</i>		
	<i>Number of times the telephone appointment is used</i>	<i>As % of the total no. of times the telephone appointment system is used</i>	<i>As % of the total no. of patients with episodic illnesses in the respective age group</i>	<i>Number of times the telephone appointment is used</i>	<i>As % of the total no. of times the telephone appointment system is used</i>	<i>As % of the total no. of patients with episodic illnesses in the respective age group</i>
Under 45 years	4 362	43.6%	53.5%	5 926	46.7%	67.0%
45 to 60 years	3 198	32.0%	45.5%	4 058	32.0%	55.2%
Above 60 years	2 439	24.4%	31.7%	2 707	21.3%	36.0%
Total	9 999	100.0%	43.7%	12 691	100.0%	53.4%

- (b) For patients with episodic illnesses, the HA does not set aside separate consultation slots for those who make appointment bookings by telephone and those coming to the clinics in person. The same pool of consultation slots are allocated concurrently to them on a first come (or first call), first served basis. The

computer system of the telephone booking service can automatically search and arrange an available slot in another clinic within the same district if all the consultation slots of a certain clinic have been allocated. The HA also displays in all clinics the number of slots available in other clinic(s) within the same district. This can help those patients who come to the clinic in person to arrange for a consultation appointment as quickly as possible. Since the implementation of the above measures, the daily number of turn-away patients due to insufficient slots per clinic has been reduced to around two to 10 persons.

(c) and (d)

The HA found that the telephone booking system, after rolled out on a trial basis at GOPCs on Hong Kong Island for more than six months, has been generally well and positively received by the public. Long waiting queues outside those clinics are now a rare scene. The HA plans to fully implement the telephone booking system at all GOPCs in Kowloon and the New Territories in the second half of 2006. Specifically, the service will be introduced to the 15 GOPCs in the New Territories in October and the remaining GOPCs in Kowloon thereafter. The HA will sustain its efforts to publicize the operation of the telephone booking system and how to use the service. Appropriate instructions and other arrangements will also be made to the elderly patients and the disabled, such as through publicity efforts in out-patient clinics and elderly centres, to facilitate a wider use of this new booking service among them and other members of the public.

Training Visas for Overseas Nationals

13. **MISS TAM HEUNG-MAN** (in Chinese): *President, I have learnt that currently the Immigration Department (ImmD) will process applications for employment visas from overseas nationals only after six months from the expiry of their training visas. As a result, they have to return to their places of origin*

first and come to Hong Kong again after the employment visas have been issued. In this connection, will the Government inform this Council:

- (a) of the reasons for the ImmD's adopting the above practice;*
- (b) of the number of overseas nationals who entered Hong Kong on training visas, as well as the respective numbers of applications for employment visas from such persons and such visas issued to them in each of the past three years; and*
- (c) whether the authorities will consider streamlining the procedure for overseas nationals' applications for employment visas; if they will, of the details of the consideration; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) Under the prevailing entry policy, people from overseas who meet the relevant criteria may be issued with training visas (valid for a stay of not exceeding 12 months) enabling them to come to Hong Kong to acquire skills and knowledge not available in their home countries/regions. In general, persons who are permitted to come to Hong Kong for training and who do not have other permits from the ImmD are required to return to their place of origin at the end of their training. If they wish to work in Hong Kong upon completion of their training, they must separately apply from the ImmD. The ImmD will process their applications in accordance with the prevailing "General Employment Policy". The applicants are not necessarily required to return to the place of origin before they are granted permission to work in Hong Kong. Neither is there a requirement imposed by the ImmD that their applications for employment visa will only be processed six months after the expiry of their training visas.
- (b) The numbers of training visa applications received and approved in relation to persons from overseas in the past three years are as follows:

	2003	2004	2005	2006 (January to June)
Applications received	883	1 664	2 202	1 427
Applications approved	937	1 529	2 010	1 343

However, the ImmD does not maintain figures of overseas persons issued with training visas who have actually come to Hong Kong. Nor does it maintain the application and approval figures of such overseas persons who apply for employment visas after having completed training in Hong Kong.

- (c) According to the existing arrangement, overseas persons may submit their employment visa applications to the nearest Chinese diplomatic and consular mission in their place of residence or directly submit their applications to the ImmD or through their sponsors in Hong Kong. Under the prevailing entry policy, persons who wish to enter Hong Kong for employment must have a good education background (normally a first degree in the relevant field), possesses good technical qualifications, professional knowledge or experience and have been offered market level remuneration in a confirmed job offer which cannot be readily filled locally; or the applicants are in a position to make substantial contribution to the economy of Hong Kong. The processing time of an application is about four weeks upon receipt of all required documents. The ImmD will take into account the circumstances of individual applications and expedite processing where warranted. The ImmD considers that the current procedures in handling employment visa applications are fairly simple and convenient, and that there is no need to further streamline the procedures for the time being. However, the ImmD will review the procedures from time to time to study whether there is a need to further enhance the efficiency and the quality of service.

Accredited Farm Scheme

14. **MR ANDREW CHENG** (in Chinese): *President, regarding the Accredited Farm Scheme (the Scheme) jointly run by the Agriculture, Fisheries*

and Conservation Department (AFCD) and the Vegetable Marketing Organization (VMO), and the charging of commission from vegetable wholesalers by the VMO, will the Government inform this Council:

- (a) of the qualifying conditions for applying to join the Scheme;*
- (b) whether the fruits and vegetables produced by accredited farms are required to be marketed by the VMO; if so, of the reasons for that;*
- (c) whether local and mainland farms invested and operated by Hong Kong people are allowed to join the Scheme upon application, and enjoy the exemption that the vegetables produced by them are not required to be marketed by the VMO; if not, the reasons for that; and*
- (d) whether it knows the total amount of commission charged by the VMO from vegetable wholesalers for the use of its facilities and services in each of the past three years?*

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

- (a) Applicants must meet the following eligibility criteria in order to join the Scheme:
 - (1) They must be permanent residents of Hong Kong who operate vegetable farms in Hong Kong or Guangdong Province;
 - (2) Vegetables produced by their farms must be marketed through the VMO for consumption of Hong Kong people; and
 - (3) They must adopt good horticultural practices and follow the technical advice of the AFCD in farming vegetables.
- (b) The Scheme is an agricultural development project launched by the VMO. Under the Scheme, the AFCD offers technical advice to

farmers whilst the VMO tests their vegetables for pesticide residues prior to harvest to ascertain that they meet the required standard. Before distributing the farm produce to accredited retailers approved by the VMO (including vegetables stalls in markets and supermarkets), the VMO will conduct another spot check on accredited vegetables to ensure that the amount of pesticide residues is in compliance with standard required for safe consumption. Therefore, all participant farms of the Scheme must sell its vegetables through the VMO.

- (c) Through its Cheung Sha Wan Wholesale Vegetable Market, the VMO provides a fair and efficient trading venue for farmers. It also provides marketing services for vegetable vendors, such as transport, baskets for vegetables, transaction platform and bad debt recovery service. The VMO also checks the pesticide residues for farmers to ensure that the vegetables distributed through its channels meet the safety standard and thus enhance confidence of its customers in the vegetables it marketed. Under the monitoring mechanism of the Scheme, the VMO would conduct spot checks on accredited produce to test for pesticide residues and distribute the vegetables for sale through its accredited retailers. The inspection and tests are part of the quality assurance service provided for farmers and the costs would be wholly covered by the commission that the VMO charged for sale of vegetables. Therefore, the VMO cannot allow farmers that do not sell vegetables through its channels to join the Scheme.
- (d) The VMO is a statutory organization run on a self-financing and non-profit basis. It provides various marketing services to farmers by charging commission on sale of vegetables. It has ploughed back the profits accumulated over the years into local agriculture by setting up Agricultural Development Fund, scholarships and loan funds to finance agricultural studies and development programmes; facilitate agricultural land rehabilitation; improve infrastructure for agricultural land; provide capital for farm operation and infrastructure; subsidize training courses in agriculture and encourage offspring of farmers to pursue further studies, and so on.

The commission charged for vegetable sale varies from 6% to a maximum of 10%, depending on the service option chosen by the vendor. The following shows the total annual amount of commission earned over the past three years:

<i>Financial Year</i>	<i>Revenues from Commission</i>
2003-04	\$51,200,000
2004-05	\$52,000,000
2005-06	\$53,000,000

The revenues from commission are usually just enough to cover daily operational expense of the VMO, including the provision of transportation and transaction platform, and so on, as well as checking pesticide residues.

Formulation of Health Care Financing Scheme

15. **MR LEE WING-TAT** (in Chinese): *President, regarding the formulation of health care financing scheme, will the Government inform this Council:*

- (a) *of the authorities' considerations in determining when to make public the proposals on health care financing;*
- (b) *given that the authorities had undertaken in July last year that proposals on health care financing would be published in about six months, but indicated last month that such proposals would have to be announced later as more time was needed for collecting and collating the relevant information, why the authorities were not able to accurately estimate the time needed for collecting information when giving the above undertaking, and whether they will consider outsourcing the work involved; and*
- (c) *whether the authorities will consider providing this Council with the information obtained on the formulation of health care financing scheme (including the overseas experience in health care financing and the findings of the studies and researches undertaken), as well*

as the options considered, so that Members of this Council and the public can understand better the Government's work in this respect and the issue of health care financing?

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

- (a) We are now in the process of collecting and analysing the relevant data in our study of health care financing arrangements, and carrying out detailed calculations with regard to the different options under consideration. As the issues involved and the calculations required are more complicated than expected, we need more time to complete the study.
- (b) The Health and Medical Development Advisory Committee (HMDAC) was reconstituted in March last year with members drawn from professionals of different sectors, including experts in the medical and insurance fields, and academics as well. A discussion paper entitled "Building a Healthy Tomorrow" setting out the future health care service delivery model was issued last July for public consultation. To seek further public views on the health care financing arrangements, the HMDAC set up a working group comprising representatives from the medical, insurance, academic, social services and MPF sectors last October.

In the course of our study, we have drawn reference from data provided by the Hospital Authority. In addition, we have also commissioned universities and consultancy firms in data collation and analysis. These preparatory works are very important for us to map out our future policy and set the course of development. In order to make our study more effective, we have also studied the practices of other places and their experiences in developing their health care financing arrangements with a view to identifying a model most suitable to Hong Kong.

- (c) We have initially studied the experiences of a number of countries and regions in health care financing, and found them of great value

for our reference. When we are finished with further data collection and analysis, such overseas information will then be collated and released for public information. This serves to present to members of the public a broader picture of the complex issue of health care financing and facilitate a more in-depth discussion.

In fact, the release of the HMDAC's consultation document in last July has aroused some discussions in the public domain, which is indicative of an increasingly clear understanding of the issue of health care financing among the public. We are thankful to various sectors of the community, including the health care professions, academics, medical institutions, community organizations, the media and individuals for giving us valuable advices. Meanwhile, we have also taken note of the views expressed in commentaries. We believe that these views and comments, together with the feedback of the community, will facilitate further works and pave the way for an even deeper discussion of the subject in the community upon the release of the upcoming report.

The consultation document will be released sometime later, in which proposed options will be analysed and put forward for public debate.

Duty Received from Hydrocarbon Oil

16. **MR SIN CHUNG-KAI** (in Chinese): *President, will the Government inform this Council of the respective litres of aircraft spirit, light diesel oil, leaded petrol, unleaded petrol and ultra low sulphur diesel for which duty was paid in each of the past five financial years, and the respective amounts of revenue so generated as well as their percentages in the total hydrocarbon oil duty received in that year?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, the respective duty-paid quantity of aircraft spirit, light diesel oil, leaded petrol, unleaded petrol and ultra low sulphur diesel in each of the past five financial years, and the respective amounts of revenue so generated as well as their percentages in the total hydrocarbon oil duty received in that year are tabulated at Annex.

Annex

Gross Revenue Collected from Hydrocarbon Oil
(2001-02 to 2005-06)

<i>Fiscal Year</i>		<i>Unleaded Petrol</i>	<i>Leaded Petrol</i>	<i>Ultra Low Sulphur Diesel</i>	<i>Light Diesel Oil</i>	<i>Aircraft Spirit</i>	<i>Total</i>
2001-02	Duty-paid Quantity ('000 litres)	488 823	-	716 488	4 608	447	1 210 366
	Gross Revenue (\$ million)	2,962.2	-	795.3	8.8	2.9	3,769.2
	(%)	(78.59)	-	(21.10)	(0.23)	(0.08)	(100)
2002-03	Duty-paid Quantity ('000 litres)	471 809	-	655 720	-	612	1 128 141
	Gross Revenue (\$ million)	2,859.2	-	727.8	-	4.0	3,591.0
	(%)	(79.62)	-	(20.27)	-	(0.11)	(100)
2003-04	Duty-paid Quantity ('000 litres)	455 443	-	627 376	-	681	1 083 500
	Gross Revenue (\$ million)	2,760.0	-	696.4	-	4.4	3,460.8
	(%)	(79.75)	-	(20.12)	-	(0.13)	(100)
2004-05	Duty-paid Quantity ('000 litres)	446 682	-	627 709	-	754	1 075 145
	Gross Revenue (\$ million)	2,706.9	-	696.8	-	4.9	3,408.6
	(%)	(79.42)	-	(20.44)	-	(0.14)	(100)
2005-06	Duty-paid Quantity ('000 litres)	436 456	-	628 196	-	953	1 065 605
	Gross Revenue (\$ million)	2,644.9	-	697.3	-	6.2	3,348.4
	(%)	(78.99)	-	(20.82)	-	(0.19)	(100)

Parking Spaces and Pick-up/set-down Points for Coaches

17. **MR HOWARD YOUNG** (in Chinese): *President, it is learnt that with the growing number of inbound tourists, the problem of insufficient coach parking*

spaces and pick-up/set-down points at tourist attractions and shopping areas is deteriorating. In this connection, will the Government inform this Council:

- (a) of the current numbers of parking spaces and pick-up/set-down points for coaches, how the numbers compare to those in the past three years and the projected numbers three years from now;*
- (b) whether the authorities have studied the latest position of shortage of coach parking spaces since the publication of the Second Parking Demand Study — Final Report in November 2002; if they have, of the study results; if not, the reasons for that; and*
- (c) of the measures to solve the problem of insufficient coach parking spaces at tourist attractions and shopping areas?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President, there are currently 3 480 designated parking spaces and 70 pick-up/set-down points for coaches, representing an increase of 100 and 60 spaces respectively when compared with that three years ago. We will try to increase the supply of designated coach parking and pick-up/set-down facilities. However, provision of these facilities is affected by factors including the development of individual districts, the traffic conditions nearby as well as the results of local consultation. We therefore do not have a clear projection of the number of such facilities three years from now.

Apart from designated parking and pick-up/set-down facilities, coaches are also parked in wholesale markets, factories, schools, vacant land adjacent to village houses and non-government land awaiting development. Some cross-boundary coaches are also parked in the Mainland.

After the completion of the Second Parking Demand Study, we continue to collect data on parking spaces for different types of vehicles regularly. The current shortfall in coach parking spaces is about 400, which has been reduced by half when compared with the shortfall three years ago. This shows that the situation has been improving.

We have formed an inter-departmental working group comprising the Transport Department, police, Tourism Commission and the Lands Department,

and so on, to handle issues concerning provision of parking spaces for all types of vehicles and examine improvement measures. We also listen to views from the tourism and transport trades on the provision of coach parking spaces. Currently, the police implement traffic management measures at popular tourist attractions to better utilize the existing pick-up/set-down facilities. In addition, we have also adopted other measures to improve the situation, including designating more on-street parking and pick-up/set-down facilities; providing coach parking spaces at new tourist attractions; converting parking spaces for other vehicles to coach parking spaces based on actual demand; as well as providing more short-term tenancy sites for public car park operations, and making it a requirement to provide coach parking spaces at those car parks.

Reduction on Use of Plastic Bags

18. **DR RAYMOND HO** (in Chinese): *President, it has been reported that several major supermarket chains in Hong Kong have respectively signed a "Voluntary Agreement on Plastic Bag Reduction" (the Voluntary Agreement) with the Government and introduced measures to reduce the distribution of plastic bags. In this connection, will the Government inform this Council:*

- (a) *whether it knows if the number of plastic bags distributed by the major supermarket chains participating in the voluntary scheme has reduced markedly since the implementation of the Voluntary Agreements (please provide supporting figures); and*
- (b) *of the total number of plastic bags expected to be reduced under the voluntary scheme in the coming year, and whether the voluntary scheme can achieve its reduction target or an even higher level of reduction?*

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

- (a) To reduce the indiscriminate use of plastic bags at source, six major supermarket chains and retail outlet chains (Wellcome, PARKnSHOP, China Resources Vanguard, Watson's, Mannings and Pricerite) have respectively entered into the Voluntary

Agreement with the Government. They have pledged to reduce more than 100 million plastic bags in total in one year (reduction rate of 15% to 20%) and to implement a series of measures to reduce the distribution of plastic bags. These measures include encouraging consumers to use environment-friendly shopping bags, offering incentives or rebates for consumers who use such bags, asking each and every consumer if they need plastic bags, and providing training to front-line staff to solicit their support for the plastic bag reduction initiatives.

The Voluntary Agreement requires retailers to submit reports on plastic bag reduction result to the Environmental Protection Department (EPD) on a regular basis. The first report should reach the EPD within this month.

The Wellcome supermarket chain, the first to sign the Voluntary Agreement, has earlier announced its preliminary result on plastic bag reduction. The chain distributed 22% less plastic bags (or about 4.73 million plastic bags) in April this year than the same period last year. We find the result most encouraging.

- (b) As stated above, the supermarket chains and retail outlet chains have pledged to reduce more than 100 million plastic bags in total in one year. We are promoting the Voluntary Agreement to other retailers and are reaching out to them proactively. We hope more retailers will join in.

In addition, the Government strongly supports plastic bag reduction activities organized by green groups, including the "No Plastic Bag Day" (NPBD) on the first Tuesday of each month, which allows the public to gradually build up the habit of bringing their own shopping bags. According to the surveys conducted at major supermarkets in various districts, the use of plastic bags dropped by 37% and 46% respectively on the NPBD in June and July. The Government has also recently produced an Announcement of Public Interest on "Use Less Plastic Shopping Bags" for broadcasting on television, radio and publicity screens on major public transport. With the full support and participation of the public, we are confident that we can

achieve or even exceed the reduction targets as set out in the Voluntary Agreement.

Goods Obstructing Access to and from Railway Stations

19. **MR LI KWOK-YING** (in Chinese): *President, at present, large quantities of goods are transported each day by their owners to the open spaces beside Sheung Shui and Fanling railway stations, where they are collected by consignees and then transported in batches to the Mainland by the East Rail. These goods not only obstruct the access to and from the railway stations, but also create environmental hygiene problems. In this connection, will the Government inform this Council:*

- (a) *of the actions which have been and will be taken by the Food and Environmental Hygiene Department (FEHD), the Transport Department (TD) and the police to reduce the inconvenience caused by the above activities to train passengers;*
- (b) *whether it has considered providing sites near these railway stations for the temporary storage and transfer of such goods; if so, of the places which have been considered; if not, the reasons for that; and*
- (c) *whether it has considered allowing the consignees to enter and leave the Frontier Closed Area (FCA) so that they can rent buildings within such area as storage spaces and workshops; if so, of the details of the consideration; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) The relevant government departments have taken necessary actions to reduce the inconvenience caused by the activities concerned to train passengers. The FEHD has closely monitored the environmental hygiene issues caused, and conducted special operations from time to time at the abovementioned spots to deal with articles obstructing street cleaning work. From January to June 2006, the FEHD conducted a total of six operations, issued a total of 77 "notices to remove obstruction", and removed and

confiscated more than 80 articles that were not removed by their owners within specified timeframe. In addition, the FEHD arranges for daily street cleaning and regular cleansing at the abovementioned spots. If necessary, the FEHD will strengthen the cleansing services.

As for the TD, it has implemented a number of traffic management measures on Fanling Station Road outside the Fanling Railway Station and on Choi Yuen Road outside the Sheung Shui Railway Station to alleviate the impact on traffic from frequent loading and unloading activities. Such measures include the designation of prohibition on entry or restrictions on stopping as well as the addition of road traffic signs and road markings at loading bays. The police will take law-enforcement actions against offending vehicles.

The police have actively dealt with the problem of obstruction of public places by vehicles near the Sheung Shui and Fanling Railway Stations, and have issued verbal warnings to persons who cause obstruction when loading and unloading goods. From January to June 2006, the police issued a total of 160 verbal warnings to persons loading and unloading goods outside the two railway stations. The police will continue to closely monitor the situation and step up enforcement actions where necessary.

- (b) If any person or organization wishes to be the lessee and a suitable site is available, the Administration may consider the relevant proposal. At the district level, there was a proposal that the carpark near the Sheung Shui Railway Station be used for the purpose. However, this site could not be considered as it would be affected by the construction works of the Sheung Shui to Lok Ma Chau Spur Line.
- (c) The police will issue Closed Area Permits to persons who have a genuine need to enter the FCA. In general, persons who reside or work in the FCA are considered as having such a need. Whether persons concerned can rent buildings within the FCA for use as storage spaces and workshops at present will be subject to the conditions of the relevant land leases.

Development of Private Hospitals

20. **DR KWOK KA-KI** (in Chinese): *President, according to the consultation paper "Building a Healthy Tomorrow" published by the Government last year, the future direction in the provision of health care services is to place equal emphasis on both the public and private health care services. However, the Government has not allocated any suitable sites for building private hospitals for quite a long time. It has come to my knowledge that the occupancy rate of private hospital beds has reached saturation recently. Due to shortage of bed spaces, some private hospitals have even been unable to admit patients referred to them by public hospitals. In this connection, will the Government inform this Council:*

- (a) how it will, in terms of policy and health care financing, support the long-term development of private hospital services;*
- (b) apart from allocating the lot in Wong Chuk Hang, whether it will reserve any land in other districts for the construction of private hospitals so as to solve the problem of shortage in bed spaces in private hospitals; whether such land includes the hospital site mentioned in the report on Kai Tak Planning Review; and*
- (c) whether it will support health care services in Hong Kong through the provision of land and construction subsidy, as it does for educational institutions, in order to encourage approved charitable institutions or trust corporations of a public nature to build more private hospitals?*

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

- (a) The Health and Medical Development Advisory Committee (HMDAC) released a consultation document entitled "Building a Healthy Tomorrow" in July 2005. It recommends, among others, that the public and private medical sectors should be well-integrated to promote healthy competition in terms of service quality and professional standards, and provide a choice for the public.

The consultation document also recommends that it is necessary to redress the imbalance between the public and private sectors. This will not only allow the private sector greater room for development, but also help achieve an overall improvement in the quality of care for patients and thus sustainability of the health care system.

To provide the dynamism necessary for the transition of patients between the public and private sectors, we share the HMDAC's view that a territory-wide information system should be developed whereby carers in both public and private sectors, with prior authorization from their patients, can access, enter, store and retrieve patients' personal medical records. This is fundamental to the success of referral protocols and shared care programmes between public and private sectors.

The Hospital Authority (HA) launched an Electronic Patient Record Sharing Pilot Project in the second quarter of 2006 which allows certain number of private medical institutions to have access via the Internet to patients' records kept in the public hospitals with the patients' consent. This project serves to assess the technical feasibility of patient record sharing and its acceptability among the users. It is expected that some 200 private medical institutions (including private hospitals, clinics, care homes for the elderly and those involved in the shared care programmes) with about 10 000 patients will participate in the project ultimately. A thorough review of the pilot project will be conducted by the HA in the last quarter of 2006.

- (b) From the land-use planning angle, the development of a hospital on land zoned "Government, Institution or Community" is generally permissible. The hospital site in the draft Preliminary Outline Development Plan under the planning review of Kai Tak is earmarked for the development of a public hospital.
- (c) The Government has put in place a mechanism to process applications from organizations interested in running private hospitals. Where an application fulfils established government policies and public interest considerations, the Government will offer appropriate assistance which includes giving consideration to an application for the grant of land.

BILLS**First Reading of Bills**

PRESIDENT (in Cantonese): Bill: First Reading.

UNSOLICITED ELECTRONIC MESSAGES BILL

CLERK (in Cantonese): Unsolicited Electronic Messages Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

UNSOLICITED ELECTRONIC MESSAGES BILL

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I move that the Unsolicited Electronic Messages Bill (the Bill) be read the Second time.

The primary objective of the Bill is to combat unsolicited commercial electronic messages, and to set the ground rules for sending such messages so that the wishes of the recipients can be respected and realized and, at the same time, leave room for the development of normal business activities. The Bill also proposes penalties with deterrent effect in order to sanction those spamming activities through illicit techniques.

In line with similar legislation in overseas jurisdictions, the Bill regulates commercial electronic messages only. Given the fact that transmission of electronic messages is not constrained by boundaries, the Bill makes it clear that all messages originated in or sent to Hong Kong will fall within its scope of application. The areas covered by the Bill include fax, e-mails, short messages,

voice and video calls. However, the Bill will not at this stage regulate person-to-person calls in order to allow limited forms of electronic marketing activities and to address the concerns of small and medium enterprises.

I would like to highlight the major features of the Bill. First, the Bill proposes to establish an "opt-out" regime, whereby a sender may send commercial electronic messages to a recipient until the latter refuses to accept further such messages. The sender must provide in the message an "unsubscribe facility" and accurate return electronic address to enable the recipient to make an "unsubscribe request" to the sender for not sending him further such messages.

Any person who does not wish to receive unsolicited electronic messages regulated by the Bill can also request to have his electronic address included in a "do-not-call register" established by the Telecommunications Authority. This will save the trouble of sending unsubscribed messages to individual senders.

In addition, the sender must comply with other rules for sending commercial electronic messages, including the provision of accurate sender information, the prohibition of misleading subject headings, the prohibition of concealing calling line identification information, and so on.

If any organization or individual contravenes the above rules, the Telecommunications Authority can issue an enforcement notice to require the organization or individual to remedy the contravention. Failure to comply with the enforcement notice will be an offence punishable by a fine up to \$100,000 for the first conviction, and up to \$500,000 for the second and subsequent convictions. The heavier penalty for the second and subsequent convictions is to increase the deterrent effect and to ensure that repeated offenders will be suitably punished.

The recipient of an enforcement notice could appeal to the newly established Unsolicited Electronic Messages (Enforcement Notices) Appeal Board (the Appeal Board). To prevent possible abuse of the appeal mechanism, the Bill provides that, unless it is ordered by the Appeal Board, the lodging of an appeal will not suspend the operation of the enforcement notice. The Appeal Board is also empowered to make an award on costs against an appellant if it is satisfied that the appeal is conducted in a frivolous or vexatious manner.

To prevent any abuse of information collected from the unsubscribe requests or obtained from the "do-not-call registers", the Bill prescribes that it is an offence for using such information for any purpose other than the specified purposes and such an offence is punishable by a fine up to \$1 million and imprisonment for up to five years.

The Bill also proposes to prohibit the supply, acquisition or use of address-harvesting software and harvested-address lists in order to sanction those acts that support spamming. These offences will, upon conviction, be punishable by a fine up to \$1 million and imprisonment for up to five years. For fraud and related activities in connection with spamming, we propose, in view of their seriousness in nature, to impose a heavier penalty of a fine of any amount to be determined by the Court and imprisonment of up to 10 years to increase deterrent effect. These techniques should not be adopted by businesses engaged in legitimate electronic marketing activities. Therefore, the relatively heavy penalty should not be a concern to them.

Another proposal in the Bill is to empower the victims of unsolicited electronic messages to make civil claims for loss or damage against the party who sent the messages in contravention of the Bill, irrespective of whether the party had been convicted. Since some victims may only suffer relatively small amounts of monetary losses, such as mobile phone roaming charges, we propose that if the amount of monetary claim is within the jurisdiction of the Small Claims Tribunal (up to \$50,000), the victim can make the claim in that Tribunal. For higher losses or damages, the claims should be pursued in the District Court.

Madam President, the proposals in the Bill are made on the basis of the outcome of the consultation which we have undertaken in the early part of this year. We are of the view that the proposals are able to achieve a right balance between combating unsolicited electronic messages on one hand, and allowing electronic marketing activities on the other. Since the gazettal of the Bill, it is welcomed and has received general support from various sectors of the community.

To further improve the provisions of the Bill, we would be pleased to work with Members when they scrutinize the Bill. We hope that the Bill can be

enacted as soon as possible in the next Legislative Session in order to reduce the nuisance caused to members of the public by unsolicited electronic messages.

Thank you, Madam President.

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

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

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Betting Duty (Amendment) Bill 2006.

BETTING DUTY (AMENDMENT) BILL 2006

Resumption of debate on Second Reading which was moved on 26 April 2006

PRESIDENT (in Cantonese): Mrs Selina CHOW, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report on the Bill.

MRS SELINA CHOW (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Betting Duty (Amendment) Bill 2006 (the Bills Committee), I would like to report on the deliberations of the Bills Committee.

The Betting Duty (Amendment) Bill 2006 (the Bill) seeks to reform the betting duty system for horse race betting and to rationalize the regulatory regime of horse race betting, so as to bring it broadly in line with football betting and lotteries.

During the past few years, there has been a continuous decline in the turnover on the Hong Kong Jockey Club (HKJC)'s horse race betting. The

HKJC is of the view that this is mainly attributable to the increasingly rampant illegal gambling activities. The Government hopes that, through introducing reforms to the betting duty system, the competitiveness of the HKJC *vis-a-vis* illegal bookmakers can be enhanced. The Administration has explained that the Government's gambling policy is to restrict gambling opportunities to a limited number of authorized and regulated outlets only. The proposed reforms to the betting duty system for horse race betting will be able to provide flexibility to the HKJC to set and adjust payout rates for different bet types and provide rebates, so as to narrow down the room of survival of illegal bookmakers, thereby diverting some of the illegal bets to the authorized channel.

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

Some members agree with the Government's approach. However, some other members query the approach adopted by the Government, holding that stringent actions should be taken to clamp down on illegal bookmaking activities instead of raising the competitiveness of the HKJC. In addition, even with the implementation of the proposed reform to the betting duty system, still the HKJC will not be in a position to compete with the illegal bookmakers who could offer credit to bettors.

Members are keenly concerned about the intensity of police enforcement actions against illegal bookmaking activities. Members note that the total amount of cash and betting turnover seized from illegal bookmakers of horse racing was only \$2.6 million in 2004. If the HKJC's estimation is correct, the illegal gambling market would have a betting turnover of about \$50 billion to \$60 billion annually, then the total amount of cash and betting turnover seized by the police from illegal bookmakers were really too insignificant. Although members understand the difficulties encountered by the police in combating illegal bookmaking activities, they think that it is necessary for the authorities to review the Organized and Serious Crime Ordinance in order to facilitate the confiscation of money/assets in connection with illegal bookmaking activities.

Some members are concerned that the Bill has not specified the HKJC's arrangement in the provision of rebates. The Administration stated that it has reached a consensus with the HKJC that rebates of 10% would normally be offered to high-value bettors who have placed a losing bet of \$10,000 or more.

Apart from regulating horse race betting through the licensing system, the Government will also assess the effectiveness of the initial operation of the provision of rebates by the HKJC and consider the need to set further guidelines in the Code of Practice.

Mr Andrew CHENG thinks that the supervisory measures are insufficient in this regard. He will move a Committee stage amendment (CSA) to include the criteria for offering rebates in the licensing conditions. However, many members disagree with this.

With regard to the arrangements in handling unclaimed dividends and rebates, the Administration agrees with Mr Tommy CHEUNG's suggestion, that is, the existing practice will continue to be adopted, whereby all such unclaimed dividends and rebates will be donated to the HKJC Charities Trust. The Administration will move a CSA later on to remove all unclaimed dividends and rebates from the net stake receipts of horse race betting.

Members are concerned about whether the introduction of reforms to the betting duty system will encourage gambling. The Administration said that some measures had already been specified in certain conditions for issuance of the licence for horse race betting to prevent underage/excessive gambling. Members welcome the HKJC's agreement to contribute \$15 million to the Ping Wo Fund each year to address gambling-related problems. This is better than the previous situation when the contribution was between \$12 million and \$15 million. This time, \$15 million is just the starting point.

Also in response to the request of Mr Andrew CHENG and Miss CHAN Yuen-han, the Administration will move an amendment later on to extend the prohibited hours for advertising horse race betting from between 4.30 pm and 10.30 pm to between 9.30 am and 10.30 pm on Saturdays and Sundays. With regard to measures to be taken to convey warnings on the seriousness of excessive gambling when promotion activities are held, members hold very divergent viewpoints. Mr Andrew CHENG will move a CSA later on in this connection.

According to the Bill, the Secretary for Home Affairs is the licensing authority to authorize betting on horse racing. Mr Andrew CHENG thinks that the Legislative Council should be involved in regulation issues related to horse race betting, and he will move a CSA later on in this connection. Many members have already said that they would oppose it.

Finally, members have agreed that issues concerning ways of addressing gambling-related problems and the scope of services financed by the Ping Wo Fund should be referred to the Panel on Home Affairs for discussion.

The Bills Committee supports the resumption of the Second Reading of the Bill.

Deputy President, before I express my personal opinions on the Bill, I would like to express my gratitude to members of the Bills Committee. Our work can be accomplished with high efficiency and success simply because of the full co-operation of all the Honourable colleagues as well as the dedicated support by our staff members who have always been highly professional. In this connection, I would like to extend my heartfelt thanks to them all.

Deputy President, here are my personal opinions on the Bill. The reason for the Government tabling the Bill to reform the betting duty system for horse race betting is to enhance the HKJC's competitiveness and reclaim betting turnover from the hands of illegal bookmakers. I personally accept the justifications advanced by the Government and the HKJC because if the Government insists on getting its share of tax revenues, while disregarding the consequences brought about by the continued decline in the competitiveness of HKJC *vis-a-vis* the illegal bookmakers, then it would just keep on enabling these illegal activities to extend their room of operation. In fact, during the past few years, the turnover on horse race betting has kept declining. But the betting atmosphere in society has not shown any downward trend. From these phenomena, we know what has happened. In short, people who like to gamble will still take part in gambling anyway, and they would not refrain from gambling simply because the Government maintains its taxation practice. But if the Government adopts the proposals contained in the Bill and the HKJC could set a higher payout rate, then at least it can recover part of the betting turnover, which can then be used in some other proper ways beneficial to society.

In spite of this, I think that it is inadequate to just rely on changing the taxation practice to combating illegal bookmaking. According to the information contained in documents provided by the police to the Bills Committee, as I have said earlier, during the past five years, there were only 59 enforcement actions against illegal bookmaking on horse race betting, and the total amount of turnover was only \$28 million. When these figures are

compared with illegal bookmaking on soccer betting, in which there were 233 enforcement actions and \$160 million, the enforcement intensity is obviously inadequate. It is necessary for the police to step up its enforcement actions during race meets, so that everyone can see the determination of the police in combating illegal bookmaking activities on horse race betting. Only in this way can they win the confidence of the people. During the World Cup Finals held several weeks ago, everyone could see that the police had made very good achievement in cracking down on illegal bookmaking on soccer. According to the estimate of the HKJC, over 85% of the bets originally placed with illegal bookmakers had been diverted to the "HKJC Football". The facts are all before us: The police cannot use all sorts of reasons to defend its feeble enforcement.

Deputy President, we are all very concerned about the assistance needed by problem and pathological gamblers because not only the gamblers themselves are affected, but also their families. At present, services assisting gamblers to kick the habit are mainly provided by some larger voluntary organizations such as those services operated by the Caritas or the Tung Wah Group of Hospitals. When the Bill was being scrutinized by the Bills Committee, we heard several schools and social welfare agencies mention the inadequacies of the fund allocation policy of the Ping Wo Fund. We think that the effectiveness of such programmes of counselling services, instead of the sizes of their respective organizations, should be considered as the criteria for deciding whether their applications are accepted. With regard to the amount of fund that the HKJC should contribute annually for this purpose, I personally think that there should be some flexibility. It is, therefore, good to have \$15 million as a start. But still this should be reviewed from time to time, so that assistance can be provided to successful service providers for helping needy people and families.

With these remarks, Deputy President, I submit the report and support the Second Reading of the Bill.

MR ANDREW CHENG (in Cantonese): Deputy President, the HKJC's has insisted on altering the levy of betting duty on horse race betting from charging on turnover to gross profits primarily because it has to compete with illegal bookmakers, combat illegal bookmaking, and snatch the turnover lost to illegal bookmakers. The HKJC is very fond of citing the constant decline in betting duty on horse race bets in recent years to illustrate how illegal bookmakers have

eaten in its turnover, in disregard of the constant rise in the football betting turnover since the authorization of football betting. Driven by the World Cup fever this year, the football betting turnover is expected to exceed \$30 billion. The increased football betting turnover should be enough to make up for the loss in horse betting turnover. Such being the case, why should the HKJC insist on introducing a new way of levy and provide rebates to high-value bettors? The HKJC not only wishes to snatch the turnover lost to illegal bookmakers, it also wishes to explore new sources of clients in the hope to lure people who used not to bet, thus boosting the betting population, and bettors who do not place high-value bets at present to increase the amount of their stakes. Deputy President, such an additive gambling policy will only fuel the existing gambling problem, which has become so rampant after the World Cup Finals that people of all ages are literally involved.

In our opinion, the most effective way to combat illegal bookmaking is not to curb gambling activities by legalizing them. Instead, the police in Hong Kong should enhance exchange of intelligence with the police forces in other places, take more frequent enforcement actions, intensify interception and prescribe the right remedy targeting the source of illegal bookmaking. The Government should not put the cart before the horse by allowing the HKJC to introduce more and novel betting options to compete with illegal bookmakers.

We can find out whether the authorities' vigour in combating illegal bookmaking activities is adequate by merely looking at the figures provided by the police. While the turnover of illegal gambling on horse races is estimated at \$60 billion, the value of illegal bets seized by the police, however, was only several million dollars per annum. With such a marked difference between the two, does the Government consider these figures capable of convincing the public and this Council that every possible means has been exhausted and proved futile before switching to the new strategy of introducing new types of horse betting to enable the HKJC to compete with the illegal bookmakers?

The figures provided by the Government on the amounts of bets on illegal football betting cracked down by the police annually can hardly convince us that the betting duty system for bets on horse racing can, after reform, help combat illegal bookmaking activities. According to the information provided by the Government to the Bills Committee, the amounts of bets on illegal football betting seized by the police are as follows: \$20 million in 2001; \$57 million in 2002; \$36 million in 2003; \$21 million in 2004; and \$28 million in 2005. The

reason put forward by the Government for legalizing football betting in 2003 was exactly the same as that for justifying the current reform of the betting duty system for bets on horse racing and that is, to combat illegal bookmaking activities. However, it has been reflected by the figures that, even after the legalization of football betting, there has been no substantial decline in the figures on bets placed with illegal bookmakers. There were even signs of the figures surging again in 2005. It is thus evident that the legalization of football betting can simply not help to combat illegal bookmaking activities. On the contrary, following the introduction by the HKJC of this so-called legal football betting channel, some people who previously did not engage in football betting have been lured into football betting. I do not want to see the Government, after six months or a year, raise another proposal to let the HKJC introduce new betting types under the pretext that the existing betting policy is unable to compete with illegal bookmakers for, in doing so, the community will continue to bear the social cost incurred as a result of the expanding gambling population.

Deputy President, the present problem is, while illegal bookmaking has not weakened, gambling has become increasingly rampant. Two studies on the gambling population in Hong Kong were conducted by The Hong Kong Polytechnic University (PolyU) and the University of Hong Kong (HKU) in 2001 and 2005 respectively. The findings of the study conducted by the HKU in 2005 show that 81.8% of the local population engage in gambling, which is 3% higher than the 78% indicated in the study conducted by PolyU. The number of young gamblers aged between 18 and 19 even rose from 4.7% in 2001 to 12.9% in 2005. The study has also revealed that, in the aged group between 12 and 17, 29.8% engaged in gambling in the past year. In the age group between 18 and 19, the percentage of people engaging in gambling in the past year even reached 51.6%.

Deputy President, with the approach of World Cup Finals this year, gambling in Hong Kong has become even more rampant. A wide range of surveys indicate, incidentally, that the gambling population has a tendency of getting increasingly young. Earlier, the Dr Stephen Hui Research Centre for Physical Recreation and Wellness of the Hong Kong Baptist University interviewed more than 700 students aged between nine and 19, from Primary Three to Secondary Six. According to the findings of the study, the percentage of the interviewed primary students indicating the wish to engage in football betting was 9.7%, which was even higher than the percentage (7.6%) of secondary students wishing to engage in football betting — Deputy President, the

percentage of primary students was even higher than that of secondary students. Besides, during the period from November 2005 to March this year, the Prevention and Rehabilitation of Pathological Gambling Association and PolyU conducted a study on the trend of gambling among secondary students and interviewed more than 800 secondary students aged between 11 and 19. The findings of the study reveal that 53% of the interviewees gambled in the past year, which is 39% higher than the percentage reflected in similar surveys conducted in 2004. According to the evaluation of the study, 3.2% of the interviewed young people might have become pathological gamblers.

Deputy President, this independent survey should have raised an alarm for the Home Affairs Bureau. If 3.2% of our young people have already become pathological gamblers, whereas nearly 10% of the primary students in Hong Kong have started engaging in football betting, by how much will the gambling population in Hong Kong grow in the next decade or two? Will society have to bear the social costs incurred as a result of the emergence of pathological gamblers in society? Regardless of the amount of betting duty collected by the Government, there is no way to make up for these social costs. I would like to emphasize my hope that people in the community can stop repeating that we oppose this amendment or football betting because we are moralists. We are discussing the matter with the Government from the angle of social policies, or even the economic angle, not from that of a moral high ground. If the revenue from betting duty cannot make up for the social costs incurred in the next decade or two, why should the Government take the lead in doing this? Why should the Government risk increasing a wide range of social costs in the next decade or two for the sake of the trivial benefit before it, which would result in more rampant gambling in society and a rise in the number of pathological gamblers? I hope the Government and the Secretary can give careful consideration to this subject. Even if we consider the matter from the angle of social policies and the economic angle, not from that of the moral high ground, it is still inappropriate to do so.

Deputy President, the tendency of the local gambling population to get younger and younger is extremely worrying. It is irresponsible of the Government to "add oil to the fire" at this critical moment.

As a responsible political party, the Democratic Party will propose a Committee stage amendment (CSA) providing for enhanced regulation of the HKJC and the inclusion of the formula for calculating high-value bets in the

licensing conditions in the interest of preventing the continuous spread of gambling. Though we know quite well that the CSA will most likely be vetoed, Deputy President, we will continue to work steadfastly. As pointed out by Chairman of the Bills Committee, Mrs Selina CHOW, earlier, we were highly efficient this time (I have to praise the Bureau too) — for many of the questions raised by us were given prompt replies, though they were unacceptable to us. However, the Bureau's vision and policy direction, though entirely different from ours, cannot prevent me, as the spokesman of the Democratic Party in this area, from making persistent efforts in proposing CSAs because we worry that, once the regulation of the HKJC is relaxed, the HKJC will exploit every legal loophole to encourage the public to engage in gambling indiscriminately.

When I produced the promotion scripts distributed by the HKJC to persuade its clients to engage in football betting, which I had collected through various channels, at a meeting of the Bills Committee, some colleagues present considered it absolutely inappropriate of the HKJC to persuade its client to engage in horse betting, as the HKJC is operating on a non-profit-making basis. Though the Home Affairs Bureau eventually confirmed the occurrence of this incident, it pointed out that the incident had occurred in end 2004 only, as the licensing conditions regulating the operation by the HKJC of horse race betting had not come into effect. The Bureau emphasized that, since the commencement of the negotiation between the HKJC and the Bureau on the reform of horse race betting, the relevant practice had discontinued.

While those words still ring in my ears, Deputy President, I have recently received some anonymous complaints. I have at hand some so-called promotion scripts provided to the HKJC staff, requiring them to inculcate the promotion messages to the bettors inside betting centres or the people entering betting centres. Let me read out some of the scripts first. This is the Talk of the Day of 27 May 2006: "A \$10 bet for Triple Trio tomorrow may bring in an estimated dividend of \$23 million for a single winning bet!" Then, the staff will greet the customer by saying, "How are you? What can I help you?" before making eye contact and exchanging smiles with the customer and awaiting his reply. If he is a regular customer, he will be asked whether he has any favourite. If his reply is affirmative, the staff may offer help in filling the ticket for him. If his reply is negative, the staff may suggest, "A \$10 bet for Triple Trio tomorrow may bring in an estimated dividend of \$23 million for a single winning bet. The highlight is the Chater Cup of race 7. As this is a Group 1 event, the best will all turn out for the race. You may well consider "Win" and

"Place". If the customer is uninterested in the conservation, the staff may change the subject by saying, "If you have favourite picks for other races, you may consider "All Up", or "Cross Pool All Up", which is even more flexible. If you have time, you may refer to these recommendations by well-known commentators." The staff shall keep lobbying the regular customers even if they show no interest. What about the new customers who are interested but have no idea about how to place their bets? Here is the advice, "Here we have some tips indexes, which are the computer's calculation results of the analysis made by newspapers and the media based on the strength of the horses and their chances. You may try "Win" and "Place" if you are interested. How about a Triple Trio computer ticket? There is a jackpot too." If the customer is still uninterested, the staff may say, "Never mind, here is some additional information for reference."

Deputy President, time is really running out, but I still have several scripts here. I will certainly read them out when I move the CSA later. I read out all this information because I wanted to put it on record, for Deputy Secretary Stephen FISHER once stated in the Bills Committee that the information was no longer used. However, the information I read out just now was dated 27 May 2006. Anyhow, I will read out the World Cup promotion information when I move the CSA later. However, the World Cup events have been handled in a smarter manner. As they had realized our awareness of their promotion tactic, the promotion scripts were called information and services scripts instead.

Why do I have to make persistent efforts in moving CSAs? Although I know it very well that the CSAs will not be passed, I still want to tell Members that the HKJC will try every possible means and require all front-line staff to have a target. Let me cite an example of one of the targets here — 30 000 new betting accounts (regardless of age) to be created between 17 July and 28 August 2005.

Deputy President, I have handed all this information to Mr FISHER. I hope that when he speaks later on, he can explain to us all these targets, guiding principles of the HKJC and explain why these information and services scripts, formerly known as promotion scripts, can still exist. I hope colleagues can understand that our CSA is intended to make everyone realize that the HKJC can simply not compete with illegal bookmakers. I hope Members will agree that this Council is possibly the last defence. What I earnestly want to share with Members is that the gambling policy must have a breaking point. Gambling

certainly performs a social function. However, gambling must be curbed if this function is coming close to the breaking point. The Government should not try to curb gambling activities by legalizing them in order to compete with illegal bookmakers, for the gambling population in Hong Kong will expand indefinitely as a result. When gambling is nearing the breaking point, the Government is obliged to curb and combat illegal bookmaking activities, instead of acting in the way it is today. This is because, at the end of the day, it is difficult for the so-called high-value bets or rebate percentages proposed by the Bureau to compete with illegal bookmakers. Hence, I hope the Secretary will listen carefully to my speech. Though I know very well that I will not win this battle, I still want to put this on record and make an effort for society.

DEPUTY PRESIDENT (in Cantonese): Time is up.

MR TOMMY CHEUNG (in Cantonese): Deputy President, let me first declare that I am the HKJC's voting member to remove any doubt Members might have about the capacity in which I am speaking. Actually, I am discussing the Amendment Bill in my capacity as a Member of this Council. After listening to Mr Andrew CHEUNG's speech, I find that he seemed to be suggesting that the Government or the HKJC, whatever they did, would not win the battle against illegal bookmakers.

I would like to look at the matter from another angle. In my opinion, soccer betting is completely different from betting duty on soccer betting, and the two should not be mixed together. The present betting duty system has given the illegal bookmakers viability, as the rate of duty payable by the HKJC to the Government is over 10%. On the other hand, the bookmakers can maintain their viability by offering a discount rate of 10%, or even 15%. Not only do the bookmakers require no start-up costs, they may even "extend credit". Yet there is nothing the HKJC and the Government can do to stop the illegal bookmakers from "extending credit".

However, I disagree with Mr Andrew CHENG's point, that the Government can do nothing. In my opinion, the Bill can effectively restrict the viability of the illegal bookmakers, and I therefore believe it absolutely possible for the Bill to deal a blow to many illegal bookmakers. However, can all of them be eliminated? Of course, I will not be so naive as to think that the Bill,

after enactment, will lead to the early or immediate closure of the operations of the illegal bookmakers.

The present mode of operation of the HKJC is unique in the sense that no similar examples can be found elsewhere in the world. I have been told by many representatives from overseas countries that, should they be able to start afresh, they would follow the example of the HKJC to operate the horse racing business as a non-profit-making institution and return the proceeds or profits to the community for charity purposes. I note that the turnover of the HKJC has been falling from its peak of \$90 billion per annum to only \$60 billion in the last racing season this year. According to my information, the HKJC will be operating at a loss should its annual turnover drop to \$49 billion or so.

Judging from this trend, it seems that we cannot possibly afford to fantasize that the HKJC can continue with the same mode of operation in the next few years. This explains why changes are necessary. All businesses must undergo changes; the HKJC is no exception. Under such circumstances, the Liberal Party supports the enactment of the Betting Duty (Amendment) Bill 2006 because, in doing so, the Government can boost its revenue and the HKJC can enhance its competitiveness to combat illegal bookmaking through reforming the existing horse race betting system. Therefore, the Liberal Party supports the Second Reading of the Bill.

When colleagues speak to move their proposed amendments later, I will state the Liberal Party's position and indicate whether or not we will support them.

I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Mrs Selina CHOW, is there a point of order?

MRS SELINA CHOW (in Cantonese): Excuse me, Deputy President, I have forgotten to declare my interest. I am a HKJC member, though I am not a voting member by the definition of the HKJC.

DEPUTY PRESIDENT (in Cantonese): You will have the chance to speak later.

MRS SELINA CHOW (in Cantonese): I just want to declare my interest earlier.

MISS CHAN YUEN-HAN (in Cantonese): We made it very clear that we did not support the enactment of the previous legislation on soccer. By way of legislative amendment, the Government is seeking to widen the scope of the betting duty.

We would never support any notion we disagree, why? I have been asked by some reporters why I have joined the relevant Bills Committee on both occasions. Being also a Member of the Legislative Council, I am duty-bound to look at the entire deliberations of the Bill. Even if we are powerless to do anything to block some of the amendments, I still hope that they can be improved.

Hence, as mentioned by Mrs Selina CHOW, Chairman of the Bills Committee, earlier on in the meeting, I would also like to say a few words on section 6GB(4)(d). Actually, I agree. The extremely interactive and positive discussion held at that time was focused on extending the prohibited hours for publicity and advertising on family days, including Saturdays and Sundays. This idea was originally not bad. I had planned not to raise any objection during the Second and Third Readings, though I had planned to move an amendment to the Bill. However, Permanent Secretary Stephen FISHER acted very promptly by proposing an amendment. Theoretically, we should support his amendment. However, since his amendment is entangled with many other amendments, I must maintain my voting position by raising objection during the Second and Third Readings. Nevertheless, I still welcome the Government's acceptance of our views on this.

Deputy President, the purpose of the HKJC's proposal to reform the betting duty system for bets on horse racing is, according to what it said here or what it has publicly stated, to combat illegal bookmakers. However, having looked at the figures provided by the Government, it appears that there is no adequate data to substantiate the argument. Neither can we figure out the argument from all the figures provided by the Government, the commissioned

universities or non-government organizations. According to the Government's explanation at that time, given the secret nature of the illegal bookmakers, no figures were available and the amount of money involved could not be possibly known. If this is the case, the arguments put forward for the amendment of the Ordinance, or the previous enactment of the relevant Ordinances, on the ground that the illegal bookmakers must be targeted and combated vigourously, are very weak indeed. On the one hand, the Government wishes to do so but, on the other, it cannot provide the data when it is requested to do so, though I have originally decided to object. Yet I have no idea what the Government is talking about insofar as these parts are concerned.

Another justification for the HKJC's proposal to reform the betting duty system is the fall in horse racing turnover year on year. It can thus be seen that the present reform is purely meant to raise the dividends to lure more people to engage in horse betting. Frankly speaking, despite my objection today, I will not go to such an extreme as to oppose mahjong and poker games, though they have been described by the Government as gambling activities. Actually, I respect the existence of mahjong and poker games if they are treated purely as a kind of entertainment for the people without involving the loss of enormous sums of money or high-risk gambling. However, I consider it problematic if the Government takes the initiative to advocate certain acts and, for the sake of preventing certain events from being replaced by others in the market, raises the dividends to lure more people to engage in such acts.

Earlier I heard Mr Andrew CHENG rapidly roll out the promotion scripts of the HKJC. Actually, some members of the worker union of the HKJC are sitting up there. They are the employees of the HKJC too. The HKJC has been employing different tactics to encourage the entire community to take part in gambling. On the surface, the HKJC has merely issued some publicity messages. Actually, this is not the case. The HKJC employees are indeed subject to enormous pressure, for if they do not perform good enough and fail to encourage people to place their bets, and so on, they will be penalized. This explains why they feel very strongly about this. Under such circumstances, not only will I cast an opposing vote, my two colleagues will also do the same at the Second and Third Readings.

Moreover, I would like to emphasize that, like the previous enactment of legislation on soccer betting, the current proposed amendment to the gambling legislation is based on the ground that regulation is warranted because the

Government considers that there are too many betting options available in the world, and it is very often extremely easy to take part in betting. Although the legislation has been in force for years, we have actually seen that, particularly after the recent World Cup Finals, soccer betting cannot be prohibited no matter how the Government goes about doing it. As the situation now stands, the Government has merely joined the game and followed suit. If the HKJC complains of a drop in revenue, Members will just have to look at the amount of the Government's revenue. Actually, the Government has managed to generate substantial revenue from various channels. Why does the Government still have to be so concerned here?

On the other hand, I would like to say a few words on the problem of gambling among young people, a matter of constant concern to me. This was also one of the major reasons for my raising objection during the last discussion on soccer betting legislation. I would like to point out that the rise in gambling figures is attributed to the participation of young people in gambling. Their participation in horse race betting will certainly lead to the same situation too. In a survey conducted by Breakthrough last year in which 1 700 people aged between 16 and 60 were interviewed, it was found that there had been a substantial increase in the number of young people engaging in betting. It is worthwhile for the Government to pay attention to this. Very often, people may say that this is not the case. From an objective point of view, however, we have seen the situation during World Cup Finals and taken account of a lot of numerical analyses and, in the end, witnessed various forms of seduction, convenience, and tension, compelling young people to engage in gambling.

I would sometimes watch soccer matches when watching television. Very often, I would see some APIs advising people against gambling. I could not help laughing when I saw the APIs for the Government was, on the one hand, making use of advertisements and, on the other, saying that it had to launch reform to attract more people to take part in gambling. In terms of logic, the Government's act is indeed incomprehensible. However, the Government has steadfastly refused to admit this. When we asked the Government about the problem of pathological gamblers, the survey conducted by the university commissioned by the Government obviously shown that the number of pathological gamblers had increased rather than decreased as a result of the Government's initiatives. Therefore, I feel that the situation warrants the attention of the entire community. I have been keeping in touch with the grassroots. Family problems are frequently associated with horse race betting

and gambling. Actually, the Government cannot afford to take these issues lightly. Furthermore, some children and young people have even been found engaging in gambling. The Government must look into the issue and address it, for it will eventually turn into a social problem.

Deputy President, on behalf of a group of HKJC employees, I would like to convey their sentiments. On the one hand, the HKJC is a conductor of betting on soccer matches and horse races and, on the other, an organization operated under the auspices of a charitable organization. In order to force its employees to achieve its desired target, the HKJC has performed extremely poorly in its personnel management. The scripts rapidly rolled out by Mr Andrew CHENG earlier in the meeting are very often the tactics the HKJC has compelled its employees to use to drum up publicity. For instance, a person placing bets on Mark Six will be persuaded to try soccer betting at the same time, taught how to place bets on the home team or the visiting team (I am not sure if I am right as I know nothing about gambling), and told that soccer betting is very easy. Even an elderly woman will not be spared. She will be persuaded to add more money and given some gambling advice too. Members might ask: Is it because the HKJC employees are particularly hard-working? The answer is no. If they do not act accordingly, penalties will follow. The threat of the penalties has brought them enormous stress at work. In addition, the HKJC employees have been treated by the management unreasonably. Such unreasonable initiatives include hiring part-time employees at very low wages. All these are most unfair indeed.

As Members are well aware, some employees working in the betting division are young people in their early '20s, who would also like to continue with their studies. As they are working part-time, it is natural for them to want to continue their studies and attend classes according to the agreed timetable. However, the management of the HKJC will often act in a spectacular manner. For instance, an employee may opt for classes on Monday, Wednesday and Friday mornings after agreeing to perform the afternoon shift. Yet the management would suddenly ask him to work overtime the next day because of some problems with the bets. However, the management would not give him one week's prior notice. He might be notified in the afternoon of the need to work overtime the next morning. Furthermore, it would be unforgivable should he report duty several minutes late. Some people might not understand that the reason for an employee to be dismissed is that he has probably been late

20 times over, say, a year. However, each time he was notified in the evening yesterday, but he was supposed to attend classes the next morning.

The HKJC has never reflected on its practice. Strictly speaking, the HKJC, as a management body, is acting entirely different from the Government, which has been encouraging the citizens and hardworking students to pursue continuous learning. Why would a group of young people in their early '20s want to organize a labour union? The Chairman of the labour union is only 20 years old; however, he has already been fired. The reason for their organizing the labour union was that they find it absolutely and extremely unreasonable for the HKJC, as a charitable organization, to employ such a management practice. When I recently met with the management of the HKJC, they were still talking presumptuously. I immediately told my friends in the business sector that the employees would not pinpoint the management if their relations with the management were good. The management must have treated its employees badly. We even told stories that day. More than a thousand words were printed on a tiny piece of paper like this one. The employees questioned how they could read clearly when the paper contained so many words. Let me recall the story from my memory

DEPUTY PRESIDENT (in Cantonese): Miss CHAN, please come back to the Bill.

MISS CHAN YUEN-HAN (in Cantonese): I will still be talking about betting and, Deputy President, that charitable organization.

I then stated that if the labour relations were good, things would not have gone to that state. By the same token, if the labour relations were good, and if the employer required the employees to help drumming up publicity and make more efforts, the employees would definitely not approach me to lodge complaints. However, the employer has been pressurizing the employees. I would often be quite frustrated when I was confronted with an organization playing so many roles.

Deputy President, the three of us will cast opposing votes at the Second and Third Readings. Our decision is not based solely on the views of the workers' union. I was asked by some people of our union when they had learned of my intention to discuss the HKJC issues why I did not support the

HKJC for it is a charitable organization. I would then fiercely criticize the HKJC by repeating what I said earlier in the meeting. I know that the Government very much hopes that Members can endorse some of the amendments. Yet I hope that the Government can understand our position when discussing the issues. In present-day Hong Kong, if the Government continues to persuade us with the two old reasons, namely the need to combat illegal bookmakers and the low betting turnover of the HKJC, we will not give our support.

Deputy President, I so submit.

MS EMILY LAU (in Cantonese): I speak in support of the resumption of the Second Reading of the Betting Duty (Amendment) Bill 2006. Deputy President, I have to declare that I am not a member of the HKJC.

DEPUTY PRESIDENT (in Cantonese): That kind of declaration is unnecessary.

MS EMILY LAU (in Cantonese): In spite of this, I had better make a declaration, just in case someone might ask me this question. By saying "no" early, I can avoid myself from being asked again when I have finished my speech. Deputy President, I did not join the Bills Committee. However, some groups have concerns about the Bill, and they hope I can express their concerns at this stage. I have also agreed to do so.

I hope the Secretary will listen to these concerns and tackle the relevant issues. I would also like to thank Permanent Secretary Stephen FISHER. Although I am not a member of the Bills Committee, he still found the time to tell me what had happened and answered some of my questions. This is why I am very thankful to him. Besides the Permanent Secretary, the Secretary deserves some praises too, because Mr Andrew CHENG said earlier in the meeting that their questions were answered promptly. The Government does not always act in this way. Despite being constantly questioned, the government officials would still not answer our questions. I believe Secretary Dr Patrick HO is really very smart. Moreover, he has a team of extremely helpful assistants.

I had not expected the Bill to be passed before July. When Mr Ronald ARCULLI talked with me about this, I still told him that it would not work, and yet it turns out to be so quick.

Deputy President, I support the Bill in the hope of improving the revenue position, thus boosting the Government's income. I do not consider it problematic for people holding an adult identity card to take part in gambling. Their preferences, say drinking or smoking, are perfectly fine with me, as long as they do not smoke indoor or besides me. I am open-minded about such behaviour.

However, some colleagues stated earlier in the meeting that our focus of concern should be the undesirable impacts on young people. Furthermore, when some adult gamblers become problem or pathological gamblers, as pointed out earlier by Mrs Selina CHOW, their families will be affected. When these problems occur, we certainly have to pay attention.

What are problem or pathological gamblers? Deputy President, I have sought advice from some people. Problem gamblers are people who will soon become pathological gamblers. Their addiction is so strong that they are treated as hopeless. In the United States, a person may be asked 10 questions to test whether he is a problem gambler. He will be classified as a problem gambler if he responds positively to three of the questions, and a pathological gambler if he responds positively to five of the questions. Therefore, a problem gambler will probably turn into a pathological gambler. It should be a matter of concern to us because it will become a social problem.

According to the information I have acquired, Deputy President, the Administration commissioned the University of Hong Kong (HKU) to conduct a survey last year. It was revealed in the survey that, in the past year, 32% of underage secondary students had engaged in different forms of betting activities, including soccer betting, horse race betting, Mark Six and mahjong playing. It is most worrying that their pathological gambling behaviour has increasingly worsened. Some colleagues seemed to have presented some relevant figures earlier in the meeting.

However, according to the information I have acquired, the percentages of students who are problem gamblers and pathological gamblers are 1.3% each. If we calculate on the basis that there are around 400 000 underage secondary

students in the territory, there are about 5 200 problem gamblers and 5 200 pathological gamblers who are underage secondary students. In other words, more than 10 000 underage secondary students are either problem gamblers or pathological gamblers.

According to the same survey conducted by the HKU, the problem with adult gamblers is even more alarming. The survey has revealed, as also mentioned earlier by a colleague, 3.1% and 2.2% of the local population can be defined as problem gamblers and pathological gamblers respectively. In other words, the numbers of problem gamblers and pathological gamblers are around 155 000 and 111 000 respectively. The combined figure is indeed considerable. Regarding the question raised by these concern groups about who will tackle these problems, the Ping Wo Fund, with an annual funding of \$12 million to \$15 million, was mentioned earlier. Mrs Selina CHOW has also indicated that an annual provision of \$15 million as a start will be made subject to the passage of the Bill.

According to my information, however, the 4 000 places provided by the two counselling centres set up under the Ping Wo Fund have all been taken up. Deputy President, they are extremely worried for the annual provision of \$15 million might still not be adequate. I note that an amendment will be moved by Dr Fernando CHEUNG later in the meeting. Deputy President, his amendment, concerning the licensing conditions for horse race betting, requires the authorized conductor to contribute not less than 1% of the net stake receipts, after deducting the betting duty, or \$30 million, whichever is the greater, to the Ping Wo Fund. I support Dr CHEUNG's amendment.

According to my information, however, some concern groups consider that this is not enough, for the Government should be responsible too. If we look back at the period from 2004 to 2005, Deputy President, we can see that the Government received \$12.1 billion from betting duty. As the Government has been benefited most from the betting policy, it is unreasonable for the Government to do nothing and order the HKJC to make contribution instead. The concern groups have therefore expressed the hope that a certain percentage of money be directly collected from betting duty to undertake education and publicity work for the prevention of pathological gamblers. They also hope that more studies on the problem can be conducted, a 24-hour helpline be set up, and counselling centres be established for problem gamblers.

Deputy President, these concern groups are extremely worried too. As mentioned by a number of colleagues earlier, given that the HKJC has pledged an annual contribution of no less than \$8 billion, once the Bill is passed, the HKJC might be forced to drum up publicity to lure more people into gambling should it fail to generate adequate revenue (there is actually no need to force the HKJC to do so, as it has already been drumming up publicity by offering more betting opportunities). Under such circumstances, the problem with problem gamblers and pathological gamblers will only worsen. When the Secretary delivers his speech later, he must respond to this and make it clear whether the HKJC has agreed that it will not let this happen. Otherwise, I believe the betting activities launched by the HKJC will certainly lead to a more serious social problem. This is the last thing we would wish to see.

Deputy President, according to the concern groups, the Government has indicated its plan to set up a Betting and Lotteries Commission, à la the present Football Betting and Lotteries Commission, for more effective regulation of the operation of the HKJC. However, the Football Betting and Lotteries Commission enjoys no actual power, and its members merely serve on the Commission on a part-time basis. Since the establishment of the Commission, only eight meetings have been held. In other words, meetings are held at a six-month interval. Such being the case, the concern groups feel that the Commission, given its mode, can do nothing to help resolve the problems mentioned earlier.

The concern groups hope that the Government can pay attention to the following points when setting up the Betting and Lotteries Commission: First, the Commission should have actual power; second, a public complaint mechanism should be set up; third, representatives from front-line counselling organizations well versed in the harms of gambling must be included; fourth, people possibly involving conflict of interest (such as Mr Tommy CHEUNG, for he is a HKJC voting member) should not be allowed to join the Commission; and fifth, meetings should be held at a regular interval of at least every two months.

Deputy President, I have presented these views from the concern groups in the hope that the authorities can consider their views and, most importantly, strike a balance to ensure that horse racing and gambling can continue without leading to more social problems and the coffers can be benefited. If problems really arise, a proper mechanism must be put in place to tackle them to prevent

Members supporting the Government from being scolded by people in future. I so submit.

DR FERNANDO CHEUNG (in Cantonese): Deputy President, the Betting Duty Ordinance has come into being because of the constant decline in the HKJC's annual turnover, the subsequent fall in revenue from betting duty, at least on horse races, and the attempt to revive the horse racing business and maintain Hong Kong's revenue. In this connection, we should bear in mind that the proceeds of the HKJC, as a charitable organization, are related to charity.

However, if Members think carefully, we will realize that no business in the world would require a change in the tax system because of the fall in revenue attributed to its declining receipts. The case in Hong Kong is indeed unique. Basically, such arrangements can be described as a "privilege". Can Members imagine a business requesting the Government to lower the duty rate because of a decline in its turnover, which has in turn led to a drop in receipts and, consequently, tax revenue? Such arrangements are indeed extremely hard to make. Anyway, we are now acting precisely in this manner, and behind such act there is a significant logic. The present problem is that the decline in turnover is caused mainly by external factors, that is, illegal betting, for the illegal bookmakers have benefited from this. Therefore, if betting duty can be lowered to make it more flexible, illegal bookmaking may then be regulated by the HKJC. Such being the case, all parties will win.

Is this logic valid? Let us first consider the rampancy of illegal bookmaking. Both the HKJC and the Government share the view that the HKJC and illegal bookmakers are having an equal share at present. With an annual turnover of around \$60 billion, the HKJC is expecting a turnover of slightly more than \$60 billion for this year too. In the opinion of the Government, the turnover of illegal bookmakers is between \$50 billion and \$60 billion too. The theory of equal shares actually dates back to 1998. What was the situation back then? Has the turnover at that time remained the same to date? If the answer is affirmative, what are the supporting factors? If we review the data, we will find that the value of betting slips seized by the police from illegal bookmakers was around \$280 million between 2001 and 2005. If the annual turnover was between \$50 billion and \$60 billion, the value of bets placed with illegal bookmakers had to be higher still, though it has now fallen to \$50 billion or \$60 billion. If the value of bets placed with illegal bookmakers

stood at tens of billions of dollars per annum, why was the value of betting slips seized by the police over such a long period of four or five years a mere \$28 million? Meanwhile, the Government commissioned the HKU to conduct an extensive survey on the participation of Hong Kong people in gambling last year. The survey reveals that 0.4% of the interviewees have engaged in gambling. If we estimate the size of the illegal market in betting on the basis of this figure, the average amount of bets placed by each of the bettors in the illegal market last year was \$3 million.

How could each bettor possibly place such a high-value bet on average with the illegal bookmakers? Are the Government's estimates problematic? Are there so many illegal bookmaking activities going on in Hong Kong? Can the amended Betting Duty Ordinance effectively divert illegal betting activities to the authorized channel? While the scale as shown by the figures is problematic, will it work if the Government relies purely on betting duty to change this phenomenon instead of the police taking enforcement actions to combat such activities? I am a bit worried about the analysis presented by Mr Andrew CHENG earlier. The change in betting duty is actually tantamount to a reduction in betting duty, as the duty regime was previously fixed, whereby the amount of duty was calculated according to the total turnover. Now, the duty will be charged on gross profits, after the dividends are paid out. However, the flexibility of paying out dividends will be put entirely in the hands of the HKJC.

We do not object to giving the HKJC flexibility, given its argument that the payout rate of nearly 90% offered by illegal bookmakers is extremely attractive. If the betting duty system is revised, the HKJC will be able to raise its payout rate to 90% too. The HKJC can then become equally attractive, and its competitiveness can be enhanced accordingly. However, Deputy President, we must bear in mind that the gross profits will be reduced should the payout rate be raised to 90%. Under the new system, betting duty will be charged on gross profits. This would mean a reduction in betting duty.

Of course, the HKJC has been very smart. It told the Government not to worry by guaranteeing that duty payable to the Government during each of the three years after implementation would be no less than \$8 billion. In other words, even if the duty payable to the Government will fall, it will not take place in the first three years. Should it really happen, the turnover will have to, according to a conservative estimate, increase by 30% in order to maintain the present duty level of \$8 billion calculated under the new duty system. But

where will the extra 30% turnover come from? Can the HKJC really snatch 30% of its turnover of close to \$60 billion from illegal bookmakers? This is a matter of concern to me.

It was asked earlier whether the betting duty system, after reform, would encourage or pressurize the HKJC to substantially boost the number of bettors. The Government has unfortunately encountered a similar experience in regularizing soccer betting. As revealed by the data of the surveys conducted by both the non-government organizations and the Government, there has been a significant increase in the number of young people taking part in soccer betting after the regularization of soccer betting.

A colleague, as well as Ms Emily LAU, mentioned earlier that, according to a survey conducted by the HKU, nearly 32.3% of the young people have taken part in gambling. It is even more worrying that some non-government surveys revealed that even young people under the age of 18 have engaged in gambling. How can they do that? While some 30% of them have placed their bets with the help of their relatives or friends, another 30% have even placed their bets in the betting centres direct. People aged under 18 are not supposed to place bets in the betting centres. However, the findings of the surveys indicate that 30% of the young people engaging in soccer betting go to the betting centres by themselves.

The findings of the surveys conducted by some non-government organizations have also indicated a three-fold increase in the number of young people engaging in soccer betting after the regularization of soccer betting. Is it because the amendment to the Betting Duty Ordinance has brought greater flexibility and thus more betting methods (under the regulation of the Football Betting and Lotteries Commission, the forms of soccer betting has increased from three or four to more than 20), thereby making it possible for people who have not watched soccer matches to engage in soccer betting too? As revealed by the examples cited earlier in the meeting, even elderly persons are encouraged to place bets. Will it be no longer necessary to read racing tips or watch morning training, for people entering the betting centres will be persuaded to engage in such betting activities as horse race betting? Actually, many organizations have expressed concerns. I am greatly concerned too. On the whole, we have no objection to the changes to betting duty. We are neutral towards any changes in the betting duty system. We also hope that government revenue can be boosted. However, we do not wish to see the legislative amendment lead to a proliferation of gambling.

We consider it necessary to strengthen regulation to disallow so many, nearly 30%, underage young people to enter the betting centres direct to place bets and take part in soccer betting. Under the new legislation, we know that, besides the changes to legislation on betting duty, there will be changes to the supervisory regime as well. In the past, the HKJC was basically not supervised. Now it is proposed that the Football Betting and Lotteries Commission be transformed into a Betting and Lotteries Commission. Frankly speaking, the new Commission is mainly advisory in nature with no solid powers. It is unconvincing for the Government to allow the Commission, with only nominal regulatory power, to exercise self-regulation.

(THE PRESIDENT resumed the Chair)

For this reason, President, one of the amendments proposed by me seek to provide in the Ordinance that no voting members of the HKJC should be allowed to sit on the Football Betting and Lotteries Commission. However, the amendment has unfortunately been vetoed by the President on the ground that it is outside the scope of the Ordinance. In our opinion, the subject under amendment does exist in the Ordinance independently. As the existence of the Ordinance has a bearing on the spirit and arrangements of the entire legislation, the future work of the Betting and Lotteries Commission will actually be affected by the Ordinance. Against this background, conflicts of interest which will obviously or possibly arise should be regulated. However, the amendment has unfortunately been rejected. Anyhow, we still have other measures that seek to further enhance supervision to prevent the amendment of the Ordinance from boosting gambling further.

I will speak again later on other amendments. Thank you, President.

MISS CHOY SO-YUK (in Cantonese): President, with the World Cup Finals having drawn to a close, what remains is, besides the spectacular shots of play fondly remembered by soccer fans, the even more rampant gambling atmosphere in Hong Kong. It has been estimated by a newspaper that, during the week of World Cup Finals, the total stake receipts from Hong Kong people reached \$13 billion. According to a survey conducted by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) before the World Cup Finals,

some 20% of the interviewees who do not normally take part in soccer betting indicate that they will do so during the World Cup matches. Meanwhile, 50% of the interviewees clearly indicate that they will place their bets through offshore betting outlets or illegal bookmakers.

In this connection, the DAB earlier urged the Government to take more stringent enforcement actions to combat illegal bookmaking. However, we believe we cannot rely entirely on stepping up enforcement to curb gambling. It is equally important to strengthen education and publicity to bring home to more people the harm of gambling, and reduce the viability of bookmakers through policies, thereby combating the hugely lucrative illegal activities.

The Betting Duty (Amendment) Bill 2006 (the Bill) targets horse race betting, not soccer betting. But still, for the same reason, the DAB supports the Bill introducing a series of taxation reform initiatives, including converting betting duty on horse race bets from turnover-based to a duty on gross profits or net stake receipts, allowing the HKJC to set its "take-out percentages" flexibly, providing rebates, and so on, with a view to enhancing the competitiveness of legal betting outlets, thereby combating illegal bookmakers. This will also help reduce the social problems and crimes arising from illegal gambling, such as acceptance of bets from minors, gambling with credit, money laundering, organized criminal activities, and so on.

The total turnover received by the HKJC in the racing season, which has just ended, was merely around \$60 billion, representing a 4% fall from the previous racing season, as well as a new low in 14 years. This reflects that the gap of attractiveness between legal horse race betting and illegal bookmaking is widening and, as a result, the turnover of legal betting has continued to shrink. We hope the Bill, after enactment today, can narrow the gap between the two, thus enabling the legal pools to capture about 10% to 20% of the turnover of the illegal horse race betting market, as stated by the HKJC. Of course, we hope that gambling will not be fuelled as a result.

However, the DAB considers the Government's efforts in cracking down on illegal bookmakers far from inadequate, and there is still enormous room for improvement. This is because the total amount of cash and betting slips seized from illegal bookmakers of horse racing is only \$2.6 million in 2004, which is a far cry from the annual receipts of \$50 billion to \$60 billion of the illegal horse

race betting market, as estimated by the HKJC. It can thus be seen that the vigour in combating illegal soccer betting is ridiculously inadequate.

On behalf of the DAB, I will express our views on the CSAs proposed by Mr Andrew CHENG and Dr Fernando CHEUNG respectively.

This Council is undoubtedly a watchdog representing public opinion. However, the DAB has reservations about Mr CHENG's demand that this Council be given the power to, by way of passing a resolution, revise the licensing conditions of the HKJC. This is because we must respect the objective reality that the reforms proposed in the Bill are the result of repeated negotiations between the HKJC and the authorities, on the premise that the Government is treated by the HKJC as the licensing authority. Even if we do not find the reforms entirely acceptable and would like to abandon all the rules of the game and start everything anew, it would only be reasonable to achieve a consensus through other platforms or channels, coupled with thorough discussions between both parties, and then implement it. Great uncertainties will arise if either party persists in having everything its own way and, through additions or deletions to the Bill, radically changes the basis of the joint discussion between both parties. So long as both the Government and the HKJC do not consider Dr CHEUNG's proposal acceptable, we can simply not see how the proposal, even if it is passed by this Council today, can be implemented smoothly. This explains why the DAB opposes the CSA.

We also have some reservations about Mr CHENG's demand that a formula or rule for determining the rebates payable be specified in the Bill, for this is against the spirit of the Bill. Given that the HKJC hopes to snatch the business from the illegal bookmakers, it certainly has to take into account the rates offered in the illegal betting market in formulating its rebate initiatives. As a result, the HKJC must maintain its flexibility before it can respond to the constantly-changing market conditions flexibly with competitive rebate arrangements to lure the high-value bettors who may otherwise place bets with the illegal bookmakers. Any attempt to disregard the objective reality and handle all matters with hands and feet tied will be tantamount to hitting one's own feet with a piece of rock. The effectiveness of the Bill, after coming into force, will only suffer a blow in the end.

We certainly agree that stringent supervision is vital. The Government's undertaking that it will pay close attention to the effectiveness of the HKJC's

rebate arrangement and consider the need to set further guidelines in the Code of Practice is acceptable to us.

In addition, Mr CHENG and Dr CHEUNG have proposed tightening the regulation on the publicity of the HKJC by separately requiring the HKJC to include warnings prominently on all betting premises, betting websites, in the conduct of any publicity or promotional activities, or in the broadcast of publicity programmes related to betting on radio or television in future. President, in order to prevent the spread of gambling, we agree entirely with this direction. In fact, during the scrutiny of the Bill, I did raise similar concerns and requests. However, considering that some places which are directly related to gambling (including betting centres and websites) have already clearly displayed the warnings, if this practice is extended to all publicity or promotional activities, we will have to consider how publicity or promotional activities should be defined. Furthermore, we do not consider it appropriate to impose statutory restrictions on the HKJC when it launches publicity activities for major sports programmes or international events because it is very difficult to define "publicity" and how it is directly associated with gambling. Should the legislation be extended indefinitely, the warnings might even have to be printed on the printed matters, towels and cups produced by the HKJC. The impact thus caused might become excessive. For this reason, we disagree that the relevant requirement be set out in the legislation. On the contrary, we consider it more preferable for the practice to be spelt out in the Code of Practice. We hope the Government can make an extra effort and exercise greater prudence. Though it is very difficult to achieve, the Government should be capable of doing so. I hope the passage of the Bill will not really fuel gambling. We also hope the Government can carry out strict supervision to prevent the spread of gambling.

As regards the measures pinpointing publicity on electronic media, the Government has agreed to move a CSA to extend the prohibited hours for horse racing and betting advertising to between 9.30 am and 10.30 pm on Saturdays and Sundays, except during broadcast of horse races. At the same time, the Government has also undertaken to request the television and radio stations to, during broadcast of horse races, increase the frequency of broadcasting APIs to publicize the harms of gambling. The Government has even undertaken to discuss with the HKJC and the television station ways to transmit warnings against indulgence in gambling during broadcast of horse races. Actually, the DAB has repeatedly made requests concerning this, and some of our requests

have already been accepted. For these reasons, we will support the CSAs, and we consider that these CSAs can strike a suitable balance.

As regards Dr Fernando CHEUNG's request for the HKJC to put aside not less than 1% of its gross profits or \$30 million, whichever is the higher, to the Ping Wo Fund (the Fund) to tackle the problem of pathological gamblers, the DAB absolutely supports the proposal of increasing resources for the Fund to offer more assistance to pathological gamblers. However, after negotiating with the Government, the HKJC has committed to an annual donation of \$15 million to the Fund till 2008, and the Government has also undertaken to, depending on the results of its review of the effectiveness of the two counselling centres, examine with the HKJC the need to further increase the resources. We agree in principle that resources must be increased — I note that the Financial Secretary is present in the Chamber, I hope he can hear our voices clearly — but we also hope that the effectiveness of the work can be reviewed in conjunction with the review. As for Dr CHEUNG's specific proposal, we have some reservations mainly because the proposal has never been discussed in the Bills Committee. Given that his view has not gone through sufficient fermentation and discussions, the DAB considers that we must act with prudence. As the relevant proposal has never been discussed in the Bills Committee, we do not wish to include the proposal in the legislation. We will therefore oppose the CSA in question.

President, we received a complaint from some employees of the HKJC outside the entrance to the Legislative Council Building this morning. Although the complaint is not directly relevant to this piece of legislation, I hope the President can allow me to spend one minute on it. Concerning the employees' recent request for a pay rise, it is of course the HKJC's own business to decide on the pay increase. However, employees who can speak English receive a higher pay rise than those who cannot. While employees who can speak Cantonese and Putonghua are offered a pay rise of \$1 per hour, those who can speak English but perform the same work are offered a pay increase of \$3 per hour. This is most unfair. Given that the Government's representatives are present in the Chamber at the moment, I hope they can listen to the views of the employees during their meeting with the HKJC to discuss issues of supervision.

President, I so submit. Thank you.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, this year's racing season eventually came to an end in early July. According to the final accounts, the turnover of the entire racing season, \$2.6 billion less than the previous season, hit a record low in 14 racing seasons. It is precisely owing to the constant fall in the horse race turnover and the repeated hitting of record lows that it is necessary to debate the betting duty system for bets on horse racing today.

Actually, Hong Kong has a history of more than a century in horse racing, and the betting duty system has been proven. The CSAs proposed by the Government will, however, completely revamp the betting duty system. With its rich experience in horse racing, the HKJC must have some reasons for its appeal for such a major overhaul. Yet I hope the Government and the HKJC can pay attention to the potential impact of the new betting duty system on revenue and the gambling culture while revising the system.

According to the Administration, the proposed new betting duty system seeks mainly to attract people who used to place bets with the illegal bookmakers to place bets with the HKJC. However, I think that the government plans might backfire, as our experience with soccer betting has clearly indicated that the Government might not be able to snatch the bets from the hands of illegal bookmakers with the introduction of the new betting duty system.

Since the authorization of soccer betting, the HKJC has been, for the purpose of competing with illegal bookmakers, introducing more types of bets, from four or five to 20 at present, and introducing new options, such as on-the-spot betting. However, there are always tricks to exploit the loopholes. Illegal bookmakers will definitely come up with more numerous and attractive betting methods. The HKJC will then be forced to follow suit, and the chasing game will simply go on forever. At the end of the day, the problem can never be resolved.

On the other hand, despite the authorization of soccer betting for a considerable period of time, the effectiveness of authorizing soccer betting remains doubtful, as illegal bookmaking is still active. During the World Cup Finals this year, the police authorities of Hong Kong and its neighbours made a number of successful raids on illegal soccer betting syndicates involving Hong Kong people, with the stakes found amounting to \$100 million. It has been

proved that betting with illegal bookmakers is still rampant, or else there will not be so many people running such risks.

From our experience with soccer betting, I can hardly believe in the effectiveness of the new betting duty system in turning the tide. Despite the HKJC's commitment that no less than \$8 billion in betting duty will be paid to the Government for each of the first three years after the implementation of the new betting duty system, what about three years later? We have to understand that the revision of the betting duty system is irreversible. I am really concerned whether the new system can guarantee the Government's future revenue.

The Administration has been blaming the illegal bookmakers for the fall in the turnover of bets on horse races. However, has the Government ever considered the placing of bets on legal soccer betting as another reason? It has been reported by the media that a lot of people who used to place bets on horse races find betting on horse races increasing difficult, and soccer betting easier. These feelings of the bettors can simply not be taken lightly.

The findings of a survey recently published by the University of Hong Kong have revealed a relatively small proportion of young people engaging in betting on horse races as proof that horse racing is on the decline. Such traditional horse racing countries as Britain and Australia are facing a similar situation too. Regardless of the reform to the betting duty regime, betting on horse races is still beset with difficulties. The only way out is to snatch the bets from the illegal bookmakers. Besides a reform to the betting duty system, it is more important for the police to combat betting with illegal bookmakers more vigorously. Otherwise, even if the reform is endorsed today, the efforts made would still be futile.

From the various reasons cited, we can see that the plans of the Government and the HKJC might not work easily. In the long run, I estimate the revenue from betting duty on horse races can only remain at the present level at the most. When this relatively stable revenue finds it difficult to sustain, widening the tax base to stabilize the revenue will become a matter of urgency. For this reason, I support the Government's commencement of consultation on the goods and services tax to collect views on the tax and other measures for widening the tax base.

Madam President, revising the betting duty system may not necessarily ensure an increase in government revenue. On the contrary, gambling may be fuelled as a result. With the passage of the Bill today, the HKJC will be able to come up with a plethora of betting methods to lure bettors. For instance, bets might be placed on whether a winning horse is odd number or even. With the introduction of such a simple horse race betting method, everyone can participate and gambling will naturally become more and more rampant.

We can get a rough idea of the strong gambling desire of Hong Kong people from Mark Six, the simplest form of legal gambling in Hong Kong. Long lines of rarely seen housewives, elderly people and office workers will appear in betting centres whenever there is a snowballed Mark Six lottery jackpot for the top prize. It is thus evident that a simple betting method offering higher dividends can attract a large number of bettors, and gambling will naturally be fuelled.

In order to tackle the possible occurrence of pathological gambling after the revision of the betting duty system and the social problems arising from gambling, I would like to appeal to colleagues here to support the CSA proposed by the Civic Party requiring the HKJC to include warnings on publicity materials involving betting, or even on betting tickets, to advise bettors against indulgence in gambling. At the same time, the HKJC should provide social service agencies with more resources for the purpose of ameliorating the gambling problem.

Madam President, someone might raise this question at this point: Since the number of bettors will increase as the new betting duty system allows the HKJC to come up with new and more attractive betting methods, will the turnover be boosted? The argument that the revenue will naturally increase with the increase in turnover seems to be in conflict with my earlier argument. No doubt the turnover might increase as a result of the introduction of more betting methods. However, have Members contemplated the required increase in turnover to maintain the duty revenue at the level of \$8 billion?

It has been estimated that the turnover of bets on horse races has to be increased by 30% before the revenue can be maintained at the present level. While the 30% increase might partly be derived from the bets channelled back from the so-called illegal bookmakers, I can tell Members that the amount of bets

placed by ordinary bettors has to be raised substantially before up to \$10 billion in revenue can be generated. Given their limited financial means, will the ordinary bettors substantially increase their stakes, even though there are more betting methods?

Madam President, I am no expert in betting on horse races. Nor do I have a good understanding of horse racing. Given the statement made by the expert HKJC that revising the betting duty system is the only way out, I have in principle no objection to the resumption of the Second Reading of the Bill. However, in implementing the new betting duty system, the authorities must pay attention to the hidden possibility that gambling may thus be fuelled. Such being the case, the new betting duty system must be complemented by a comprehensive set of policies for preventing and tackling pathological gambling. This is the very reason for the proposal of a CSA by Dr Fernando CHEUNG too. Without comprehensive ancillary measures, I will still have reservations about the new betting duty system. I so submit. Thank you, Madam President.

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

MS AUDREY EU (in Cantonese): President, I rise to speak not because I wish to speak on the Second Reading of the Bill, as Dr Fernando CHEUNG and Miss TAM Heung-man have already clearly stated the position of the Civic Party. We will support the Bill at Second Reading. However, we will object to the Bill at Third Reading if our amendment is not passed.

I only wish to make it clear, for a similar problem has occurred before, that my husband is a voting member of the HKJC. Though I have never considered it essential to make this clear under circumstances like this, President, I would like to declare my status on record for the sake of avoiding disputes. Thank you, President.

PRESIDENT (in Cantonese): Members who have not spoken can absolutely make use of the speaking time to discuss the issue. According to Rules 83A and 84(1) of the Rules of Procedure, however, even though you might have connection with the HKJC's voting members, or you are one of the voting members yourself, you are not required to declare, given that no pecuniary interest is involved at all.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wishes to speak, I now call upon the Secretary for Home Affairs to reply.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, first of all, I wish to extend my heartfelt thanks to the Chairman of the Bills Committee on Betting Duty (Amendment) Bill 2006, Mrs Selina CHOW, as well as other members of the Bills Committee for convening as frequent as six meetings in the past month or so, meeting with approximately 20 deputations and individuals to listen to and consider their views on the Bill, and seriously scrutinizing the Bill and the various amendments, to enable the Bill to be tabled for the resumption of the Second Reading debate today.

We will move a number of amendments at the Committee stage later. Many of the amendments have been made mainly because we have adopted the suggestions made by the Bills Committee or individual members, and the rest of them are amendments of a technical nature, which serve to improve the provisions of the Bill, with a view to rationalizing the overall authorization mechanism for the betting duty system of horse race betting.

As pointed out by the Chairman of the Bills Committee, Mrs Selina CHOW, in her report earlier on and also by Members in their speeches, Members have made many valuable suggestions with regard to the Bill and the underlying rationale of the policy. I would like to give a consolidated response to some of the key points made by Members.

The policy on gambling and the objective of the Bill

It is the long-standing policy of the Government not to encourage gambling, and to restrict gambling activities to a limited number of authorized and regulated outlets. The major objectives of the Bill are:

- (1) to rationalize the regulatory regime of horse race betting; and

- (2) to allow greater flexibility to the licensed operator and enhance its competitiveness for the purposes of combating more effectively illegal bookmaking activities.

In addition to combating the increasingly rampant illegal bookmaking activities, this will also ensure government revenue from betting duty can be maintained at a stable level.

Some members are of the view that the Government's proposals might contradict the principle of not encouraging gambling. In this regard, I would like to make the following clarifications:

First of all, it has been the long-standing policy of the Government that, on the premise of not encouraging gambling, gambling activities should be restricted to a limited number of authorized and regulated channels. The underlying rationale is not to encourage gambling. The aim of authorizing certain type of gambling activity is to divert any such demands to authorized channels for the purposes of combating associated illegal gambling activities. For a certain type of gambling activity to be authorized, the following four criteria must be satisfied:

- (1) there is a substantial and persistent public demand for that particular type of gambling activity;
- (2) the demand is currently satisfied by illegal channels;
- (3) the injection of an enormous amount of resources to step up enforcement actions has failed to address the issue fully and thoroughly; and
- (4) there is public support for authorizing that particular type of gambling activity.

Regarding the moral issue of whether an adult should take part in gambling activities, members of the public should decide for themselves according to their own value judgement as well as other factors. That should not be decided by the Government.

Second, there is no licensing system in the existing authorization mechanism for horse race betting. Instead, what has been in use is a written approval issued by the licensing authority. A specific authorization proposal has been espoused in the current reform. In particular, the Bill has incorporated a framework underpinned by many matching measures which aim to minimize any adverse effects on society. This can be considered as a major stride taken by the Government in policy. The matching measures incorporated into the Bill include:

- (1) granting only one licence for horse race betting to the Hong Kong Jockey Club (HKJC);
- (2) a specific licensing condition stipulating that the licensed operator cannot accept bets from juveniles;
- (3) the non-acceptance of bets on credit;
- (4) stringent regulations to govern advertising and promotional activities of the licensed operator; and
- (5) mandatory measures to be taken by the licensed operator in warning bettors of the problems that can be caused by excessive gambling.

The Bill will expand the functions of the Football Betting and Lotteries Commission to include advising the Secretary for Home Affairs on the details of the Code of Practice for regulating horse race betting, as well as the licensed operator's compliance with the licensing conditions.

Third, the Government proposes to carry out reforms to the horse race betting system with a view to diverting the demands for horse race betting to the authorized channel and to combating the increasingly rampant illegal betting problem. The police will continue to play important role in taking enforcement actions carried to combat illegal gambling. The police will continue carrying out rigorous enforcement actions to curb illegal gambling activities.

Some Members questioned whether enhancing the competitiveness of the HKJC would be effective in combating illegal bookmaking activities. We believe so. The reforms proposed by the Bill should be able to divert some bets originally placed with illegal bookmakers to the authorized channel, thereby

combating illegal gambling effectively. Even if the measure falls short of eradicating illegal betting activities, it should be able to undermine the viability of illegal bookmakers, due to the following reasons:

- (1) the licensing and regulatory mechanism proposed by us will duly provide the HKJC with latitude and flexibility, enabling it to, among other things, flexibly adjust the bet types and match types for which bets are accepted, and pay betting duty on gross profits. These conditions will enable the HKJC to be sufficiently capable of competing with illegal bookmakers and other gambling companies;
- (2) we believe the majority of Hong Kong people are basically law-abiding. Therefore, if they wish to take part in horse race betting and if a lawful and regulated licensed operator can provide betting options that are responsive to market demands, they will be happy to bet through a lawful channel.

The impacts of the proposed reforms

Some Members are concerned that individual proposals, especially the proposal allowing the provision of rebates by the HKJC, may lead to an increased betting turnover and promote gambling, thus resulting in more people becoming pathological or problem gamblers.

I fully appreciate Members' concern. The spirit of the proposed reforms is to provide flexibility to the HKJC, so that it can be more flexible in responding to market demands and be more effective in combating illegal bookmakers. Therefore, the Administration does not agree that the Bill should specify the formulae or the rules for determining the rebates payable. We believe only high-value bettors who have lost bets should be eligible for rebates. Generally speaking, high-value bets refer to bets of or exceeding \$10,000. Under this principle, the HKJC may evaluate the optimal rebates arrangement in response to market conditions so as to attract high-value bettors currently betting with illegal bookmakers and to divert them to the lawful channel. The Administration will monitor closely the initial results of the rebates arrangement of the HKJC. If necessary, the Government will provide further guidance in the Code of Practice and report the situation to the Legislative Council Panel on Home Affairs.

I fully appreciate Members' concern about the number of people engaging in gambling activities and the number of pathological gamblers. But in my view, the proposals put forward by the Government through this Bill, together with the matching measures introduced in the Bill, are unlikely to aggravate the problem. On the contrary, they may help address the adverse effects of illegal gambling activities on society.

I wish to reiterate that the Government is as concerned as Members are about the impact of gambling on juveniles. Precisely for this reason, we have specifically included many measures to protect juveniles and the underage in our reform proposals. These measures include the making of laws that strictly prohibit the licensed operator, under the licensing conditions, from accepting bets from the underage as well as from advertising and promoting horse race betting targeting at juveniles; that restrictions are imposed on the time slots during which the licensed operator may advertise on radio or television stations, and that the licensed operator is mandatorily required to adopt preventive measures against gambling-related problems. We will also issue the Code of Practice in respect of these restrictions and work out a more detailed guideline in the light of the actual circumstances. The Betting and Lotteries Commission will advise the Secretary for Home Affairs in this regard.

With regard to betting information, some Members suggested the inclusion of restrictions in the Bill to the effect that any advertising or promotional activities related to horse race betting should contain a warning of the seriousness of problems caused by excessive gambling. I agree that the Government should caution the public against the seriousness of problems caused by excessive gambling by means of public education and extensive publicity. The Government should also put in place adequate measures to reduce youngsters' exposure to gambling publicity. The Government will keep introducing all types of measures to address gambling-related problems, including the implementation of public education and preventive measures, counselling and treatment services for problem and pathological gamblers, as well as services targeted at addressing gambling-related problems. The Government has required television and radio stations to increase the frequency of "Announcement of Public Interests" during the broadcast of horse races to remind the public of the seriousness of problems caused by excessive gambling. In addition, the Bill contains specific provisions that require the licensed operator to display relevant notices at prominent positions on any betting premises or betting websites. Given all these safeguards, I do not endorse the approach of

indiscriminate use of legislation to impose sanctions. Nor do I believe that we should extend the restrictions to all advertisement or activities in relation to horse race betting, still less for such restrictions to be incorporated into the principal legislation.

Matching measures

Some deputations and individual Members believed that the Government and the HKJC should allocate more resources and introduce effective measures for preventing and addressing the gambling problems. We agree to keep introducing all kinds of measures to address gambling-related problems, including public education and preventive measures, counselling and treatment services for problem and pathological gamblers, as well as services targeted at addressing gambling problems. The Ping Wo Fund was set up to finance preventive and remedial measures for addressing gambling problems. Specifically, the Fund finances studies on gambling-related issues and preventive educational endeavours, and it also finances other matching measures that offer assistance to problem gamblers and other affected persons. The HKJC has agreed to contribute \$15 million a year to the Fund. It has also agreed to consider making extra contributions upon the receipt of additional applications. Moreover, we will continue educating the public on the nature and risks of gambling activities, so that they will understand better the gambling problems. We will initiate a youth education programme in schools and different districts to educate youngsters on the harms caused by excessive gambling. We have noted that there are demands for more resources to be allocated by the Government for the prevention, counselling and treatment of problem gambling. The Government and the Ping Wo Fund will carefully consider this suggestion as we conclude the review of the effectiveness of the existing two gambling counselling and treatment centres.

Committee stage amendments proposed by the Government

I am going to move a number of Committee stage amendments (CSAs) including the following:

First, in response to concerns raised by Mr Andrew CHENG and Miss CHAN Yuen-han on advertisements of horse race betting, the Government will move an amendment to extend the prohibited hours for advertising horse race betting on television or radio stations to between 9.30 am and 10.30 pm on

Saturdays and Sundays, since children and youngsters would spend more time on watching television on Saturdays and Sundays. It is hoped that this amendment will reduce the impact of advertisements on horse race betting on children and youngsters.

Second, in response to the suggestions made by Mr Tommy CHUENG, the Government will move an amendment to amend the calculation of net stake receipts such that unclaimed dividends and rebates will be excluded from the formula. The HKJC has undertaken that all unclaimed dividends and rebates will be donated to the HKJC Charities Trust as charity donations.

In addition, I will also move a number of amendments which aim at rationalizing the overall regulatory regime and the betting duty system. I will give a detailed explanation in the debate at the Committee stage.

The Government opposes the CSA proposed by Mr Andrew CHENG.

I wish to reiterate that the spirit of the Bill is to rationalize the regulatory regime for conducting horse races and to provide the licensed operator with flexibility to enhance its competitiveness for the purpose of combating illegal gambling more effectively. The amendment proposed by Mr CHENG seeks mainly to empower the Legislative Council to amend, by way of resolution, the licensing conditions, to the effect that it could specify a formula or a rule for determining the rebates payable and require the HKJC to display and keep displaying notices that contain a warning on the harms caused by excessive gambling at prominent positions on any betting premises or any betting websites while conducting any advertising or promotional activities. The Government opposes these proposals because they would alter the basis of the reforms, violate the legislative intent and purposes of the Bill, and substantially undermine the HKJC's flexibility and competitiveness, making it unable to combat illegal bookmakers effectively. I will further explain the reasons in the debate at the Committee stage.

The Government also opposes the CSA proposed by Dr Fernando CHEUNG.

Dr CHEUNG's amendment is mainly an amendment to the amendment proposed by Mr Andrew CHENG. It requires the HKJC to display and keep

displaying notices that contain a warning on the harms caused by excessive gambling at prominent positions when conducting broadcasts of horse races. Due to the fact that there are sufficient notices in the HKJC's betting centres and website, the Government opposes this proposal. Dr CHEUNG also suggested the inclusion of a provision in the Bill to the effect that the HKJC should make contributions to the Ping Wo Fund, the amount of which should be no less than 1% of the difference between the total turnover of bets and the levy of betting duty, or a minimum amount of \$30 million. I fully appreciate the concerns of Dr CHEUNG. However, this proposal violates the principles and rationales of the Ping Wo Fund, and the Government opposes it. If necessary, we will examine ways of providing more financial resources to the Ping Wo Fund. I will further explain the reasons in the debate at the Committee stage.

Generally speaking, Madam President, the major objectives of the Government in introducing this Bill are:

- (1) to rationalize the regulatory regime of horse race betting; and
- (2) to allow greater flexibility to the licensed operator and enhance its competitiveness for the purposes of combating more effectively illegal bookmaking activities.

The turnover on horse race betting conducted by the HKJC has been declining rapidly in recent years, from a turnover of \$92.4 billion in 1996-97 to \$60 billion in 2005-06, representing a reduction of about 35%. This is due largely to the structural factor of the existence of an ever-growing illegal gambling market. Since there is no need for illegal bookmakers to conduct horse races, nor do they need to pay betting duty to the Government, they are more advantageously poised when compared with the HKJC, and they are in a better position to provide bettors with more attractive odds, betting rebates, short-term credit and other concessions.

In order to combat illegal bookmaking activities, we will team up with the police for continual enforcement actions. Coupled with the measures for preventing and addressing gambling-related problems, I am confident that we can combat illegal gambling activities effectively and divert the demands for horse race betting to the authorized channel so as to address the social problems caused by these activities.

With the introduction of this Bill, I would like to convey an important message to the general public and to Members, that we will rationalize the regulatory regime of horse races and that we will introduce more effective measures in preventing and addressing gambling problems, with special emphasis on promotional and educational measures targeted at the underage and parents. We shall continue with our initiatives on special promotional and educational campaigns against gambling.

With the ever-changing conditions in the illegal gambling market, the betting duty system for horse race betting and the relevant regulatory regime established in the '70s are no longer capable of combating illegal gambling activities effectively. Upon reviewing the need for modifying the existing system, we have proposed to carry out a series of reforms to the betting duty system. We will conduct a review of the new betting duty system two years after its implementation to assess if the results are satisfactory and to determine if we should continue implementing the system. I urge Members to vote for the Bill as well as the CSAs proposed by the Government.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Betting Duty (Amendment) Bill 2006 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Mr James TIEN, Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Ms Margaret NG, 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, Ms Emily LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Albert CHAN, Ms Audrey EU, Mr Vincent FANG, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Alan LEONG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Ronny TONG, Mr CHIM Pui-chung, Mr Patrick LAU, Mr Albert CHENG and Miss TAM Heung-man voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr YEUNG Sum, Mr Andrew CHENG, Mr WONG Kwok-hing, Mr LEE Wing-tat and Mr KWONG Chi-kin voted against the motion.

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

THE PRESIDENT announced that there were 54 Members present, 40 were in favour of the motion and 13 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Betting Duty (Amendment) Bill 2006.

Council went into Committee.

Committee Stage

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

BETTING DUTY (AMENDMENT) BILL 2006

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Betting Duty (Amendment) Bill 2006.

CLERK (in Cantonese): Clauses 2, 4 to 10, 12, 13, 14 and 16 to 23.

CHAIRMAN (in Cantonese): 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)

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 1, 3 and 11.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, I move the amendments to clauses 1, 3 and 11. First, in clause 1 of the Bill, I propose that sections 2(2), 10, 11(2), 12, 13, 14, 15 (restricted to the scope in which the section is related to the new section 6GB), 16, 17 and 18 will come into effect as from 15 August 2006.

With the exception of the above sections, other sections of the new Ordinance will come into effect as from 1 September. The objective of the

proposal is to implement the relevant reforms before the beginning of the next racing season. Clause 3(6) proposes to introduce a series of new definitions to section 1A(1), and I propose to amend the definition of "relevant cancelled race meeting" by deleting "all" and substituting it with "each of", and in subsection (b)(ii)(B), delete "those horse races" and substitute with "the horse race". This is a technical amendment intended to make the definition of "relevant cancelled race meeting" more explicit and specific. I propose to add the definition of "director", which includes any person occupying the position of director by whatever name called. Clause 11(1) of the Bill repeals the definition of "Secretary" in section 6B(1). I propose to amend this by repealing also the definition of "director". Both these two amendment are technical. Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex I)

Clause 3 (see Annex I)

Clause 11 (see Annex I)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for 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)

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

CLERK (in Cantonese): Clauses 1, 3 and 11 as amended.

CHAIRMAN (in Cantonese): 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)

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 15.

DR FERNANDO CHEUNG (in Cantonese): Chairman, I move the amendment to the proposed section 6GA(1) in clause 15 and the addition of paragraph (h) to the proposed section 6GB(4) in that clause.

Chairman, in proposing the amendment, I hope that the HKJC can contribute at least 1% or \$30 million of its annual gross profit to the Ping Wo Fund each year after deducting the duty payable to the Government. I believe Members all know that the Ping Wo Fund was established to prevent pathological gamblers or underage young people (that is, people aged below 18) from taking part in gambling and to provide counselling services for pathological gamblers, so as to alleviate and resolve the undesirable consequences of gambling.

When the Ping Wo Fund was established in 2003, the HKJC made a contribution of \$5 million and subsequently, it made an additional \$11 million in contribution. Last year, it further contributed \$12 million. It seems the HKJC intends to contribute similar amounts in the future. In fact, is the present contribution of \$12 million or even \$15 million sufficient for providing services to existing pathological gamblers? Actually, what is the present number of

pathological gamblers? The Government has done some research in this regard. In 2001, The Hong Kong Polytechnic University conducted a relevant study. In 2005, the Home Affairs Bureau commissioned the University of Hong Kong (HKU) to conduct a study in this regard. The number of pathological gamblers rose from 1.8% to 2.2% in 2005. In fact, both the proportion and number of pathological gamblers have increased. At present, the Ping Wo Fund is subsidizing two non-governmental organizations which serve about 3 000 people. According to the figures provided by the HKU in 2005, pathological gamblers numbered at about 300 000. We can see that the number of pathological gamblers is far greater than the counselling services available to them. Therefore, the resources available to the Ping Wo Fund in providing the relevant services are very limited. Moreover, the number of young people taking part in football betting or horse-race betting is quite large. In fact, since the legalization of soccer betting, the gambling population has doubled. To a large extent, the Ping Wo Fund is responsible for the publicity in this regard. The Government also launches relevant publicity and we also appreciate the efforts of the Government. However, compared to the proportions of the entire problem, the resources committed at present is a drop in the ocean. The \$15 million we are talking about now cannot cope with the increase in the number of pathological gamblers every year and young people will continue to be affected by the gambling trend. In fact, the Ping Wo Fund should not just rely on donations from the HKJC. There is no doubt that the HKJC is a charitable organization and its contribution or part of its annual investment should be given to charitable organizations for provision of better services.

In proposing this amendment, my aim is not to deprive charitable organizations of their funding. However, if we look at the contributions made by the HKJC, we can see that the amount of money it committed to charitable causes was about \$1 billion each year, and the amount has been quite steady. The total betting turnover for the HKJC last year was over \$100 billion. In other words, this charitable organization called the HKJC is 1% charitable in nature. That is, with a betting turnover of \$100 billion, only 1% was allocated to charitable causes. It does not mean that we do not appreciate it. In fact, the annual sum of \$1 billion is a huge one. When the social services sector has not yet succeeded in cultivating a good culture of making donations, the donations from the HKJC are very important. Its donations are very important to all charitable organizations. My present amendment requires that the HKJC donate a fixed proportion of funds to the Ping Wo Fund and the Ping Wo Fund will in turn allocate the funds to other charitable organizations to undertake tasks

we believe to be worthwhile, such as educating young people under the age of 18 not to gamble and to provide appropriate services and counselling to excessive gamblers, pathological gamblers or problem gamblers in order to help them get back onto the right track. I believe this arrangement will not deprive charitable organizations of the opportunity to do the work they consider necessary. I think a lot of charitable organizations will approve of doing this kind of work. Therefore, with such a mechanism, we can ensure that the Ping Wo Fund can obtain the basic resources. Although the resources are not plentiful, basic resources will be available for providing services targeting the social ills caused by gambling.

I think that apart from the Ping Wo Fund and the HKJC, the Government should also assume some responsibilities because the Government stands to benefit the most from various types of gambling. As Ms Emily LAU put it, the betting duty received stands at more than \$12 billion, however, so far, the Ping Wo Fund has not been allocated any resources by the Government and we cannot see any government plan to step up the work in this area. I think that the Government is duty-bound and cannot just fold its arms. However, Chairman, if this amendment is not passed, I am afraid this undesirable situation will persist. If gambling is so prevalent in society, if underage young people continue to gamble and if pathological gamblers and their families continue to suffer but adequate resources are not made available to the Ping Wo Fund to address all this, I am afraid this amendment concerning betting duty will make us the object of criticisms by the public, who will say that we have not put in place a basic safeguard mechanism so that the Ping Wo Fund can have the basic resources to provide the urgently needed services that it should provide. Thank you, Chairman.

Proposed amendment

Clause 15 (see Annex I)

MR ANDREW CHENG (in Cantonese): Madam Chairman, I rise to speak in support of Dr Fernando CHEUNG's amendment, as this amendment basically seeks to make the HKJC contribute not less than 1% or \$30 million of its betting turnover to the Ping Wo Fund after duty.

Madam Chairman, just now, in the debate on the resumption of Second Reading, I listened very carefully to the speeches given by Members from

various political parties and groupings. I hope Members here will understand that, although the Secretary said in his speech just now that this Amendment Bill will rationalize the regulatory system for betting, it is precisely this so-called rationalization of the system that makes us concerned about whether doing so will continue to feed the gambling trend.

Madam Chairman, since it was not you but the Deputy Chairman who was chairing the meeting when I gave my speech earlier, I will recap the study on the gambling population and pathological gamblers conducted by some independent organizations in society, so as to convince Members, even though I may appear repetitive. Even if my amendment is negatived, I will have made a valiant attempt and everything will be put on record.

In the past, Members have argued about how many pathological gamblers there are in Hong Kong, whereas the University of Hong Kong (HKU) and The Hong Kong Polytechnic University have continuously conducted studies on this. First, I wish to point out that among the studies conducted by the two universities on the gambling population, the HKU announced in 2005 that the participation rate in gambling of the Hong Kong population was 81.8%, meaning that 80 persons in every 100 persons had taken part in gambling. Compared with a similar survey conducted in 2001, the number of people had increased by 3%. The rate of young people in the age group 18 to 19 years stood at 51.6%, that is, more than half of the young people had taken part in gambling last year. The findings of a recent survey conducted by the Baptist University are even more alarming. Madam Chairman, it is alarming in that in this survey on students from Primary Three to Secondary Six, it turned out that 9.7% of the primary school students said that they had taken part in football betting, whereas the rate for secondary school students only stood at 7.6%. However, concerning this survey, a lot of people may think that the primary school students were more candid but the secondary school students were afraid of being arrested, so they were more reticent and the survey may not reflect the reality.

However, I wish to point out here that even primary school students are beginning to gamble as a result of the authorization of football betting. If someone begins to bet on football matches from the age of about 10, Members can imagine how he will be like at 20, 30, 40 or 50 years of age if he goes on gambling. Due to the weakness in human nature, he may bet \$8 or \$10 now; at the age of 20, he may bet \$50 or \$100; when he is 30 years old, he may bet \$100

or \$1,000; at the age of 40, he may bet \$1,000 or \$10,000 and when he is 50 years old, he may bet \$80,000 or \$100,000 and consequently, he will wager all his possessions and this is how a pathological gambler comes about. In addition, a survey also shows that 3.2% of the young people may have already become pathological gamblers. Madam Chairman, this is a very saddening figure.

Today, although Members here support the amendment or the policy direction proposed by the Government, I hope that Members can consider the amendment moved by Dr Fernando CHEUNG, the aim of which is to make more funds available to the Ping Wo Fund. A number of surveys have pointed out that the number of pathological gamblers in Hong Kong ranges from 200 000 to 600 000 persons and in various surveys, their number stood at a minimum of 200 000 to 300 000 persons. If calculated on the basis of 300 000 persons, Madam Chairman, with only \$15 million at present, each pathological gambler can only receive \$50 in assistance. The present request is to increase the sum to \$30 million, that is, \$100 for each person and this is really a very humble request. I hope that the Government and Members supportive of the Government can understand this.

Miss CHOY So-yuk is not here now but I listened very carefully to the stance of the DAB just now. When Miss CHOY So-yuk talked about this point, she said that Dr Fernando CHEUNG had not explained his proposal to the Bills Committee, nor had he raised his proposal for thorough deliberation. Although she said right at the beginning that it was not right that the funds available to the Ping Wo Fund were insufficient and more funds should be allocated to it, she said that this amendment seeking the allocation of more funds had never gone through any discussion. I have just asked Dr Fernando CHEUNG about this. I believe he and I had the highest attendance rates in the meetings of the Bills Committee and we attended nearly all of its meetings — I dare not criticize other Members for their insufficient attendance rates because there are indeed too many meetings in the Legislative Council — however, as far as I can remember, perhaps it so happened that when we were discussing this issue, Miss CHOY So-yuk was not present.

Therefore, I hope that if other political parties, in particular, the spokespersons for political parties, seriously address the problem of pathological gamblers in society and the use of the resources of the Ping Wo Fund, and if they consider this measure necessary, then in addition to attending the meetings, they

should not support the Government on this issue for the sake of doing so, such that this amendment asking for a mere \$30 million will come to naught. How can the present assistance of only \$50 for each pathological gambler be sufficient? Even if the funding is increased to \$30 million, each person will still only get \$100 on average. Therefore, we demand that more funds be allocated but we demand just \$30 million as a start. I hope that although Members seated here have all supported the Second Reading of this Bill, at this stage where amendments are proposed, they can support this humble request made by Dr Fernando CHEUNG to increase the funding.

Thank you, Madam Chairman.

MR TOMMY CHEUNG (in Cantonese): I attended all six meetings convened by the Bills Committee, therefore, apart from Dr Fernando CHEUNG and Mr Andrew CHENG, I also attended all the meetings convened to scrutinize this Bill.

Concerning the amendment to this part proposed by Dr Fernando CHEUNG to "transfer not less than 1% of or \$30 million out of the amount, whichever is greater, representing the difference between the net stake receipts that are derived from the conduct of authorized betting on horse races by a horse race betting conductor in respect of a charging period and the horse race betting duty payable by the horse race betting conductor in respect of that charging period to the Ping Wo Fund", the Liberal Party does not oppose the allocation of more resources to the Ping Wo Fund to assist pathological gamblers, however, it is of the view that there is no need to specify the amount in the legislation. The 1% specified in it may turn out to be a large sum of money and we do not know how much that would be. If it is stipulated rigidly that the entire sum has to be used to provide services to pathological gamblers, this will be unfair to charitable organizations providing other types of services and will also deprive them of the opportunity to compete for resources and enhance their services.

Furthermore, the HKJC has donated a total of \$24 million in the first two years since the establishment of the Ping Wo Fund in 2003 and in the ensuing three years, its donations ranged from \$12 million to \$15 million each year. Furthermore, it has stated that its contributions can be increased when necessary.

The HKJC has made commitments to the Ping Wo Fund of its own accord from the outset.

President, another point is that the effectiveness of a service is not directly proportional to the amount of money. I believe that to increase the funding to a service without imposing any cap and without adopting proper strategies and therapeutic methods will only result in a waste of resources. Therefore, the Liberal Party holds that a study should be conducted on the need to adjust the allocation of funds to various areas of work under the Ping Wo Fund, so that the work of authorizing gambling can achieve the desired targets. Before considering the allocation of more resources, the authorities should first of all ensure that existing resources are put to good use before allocating additional resources according to the need.

With these remarks, Chairman, the Liberal Party opposes this amendment.

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

MR FREDERICK FUNG (in Cantonese): Chairman, basically I oppose the idea of diversifying and facilitating soccer betting, the introduction of different forms of gambling, and the saying that illegal bookmaking can be combated by these measures.

It actually occurs to me that, since the authorization of soccer betting in 2003, gambling has continued to worsen, with the number of people engaging in soccer betting on the rise too. In view of the growing number of gamblers or people engaging in gambling, the increasing amount of money spent on soccer betting, and the wide range of emotional or mental problems caused by indulgence in soccer betting, the Government and the HKJC have proposed setting up the Ping Wo Fund to offer assistance to gamblers or people indulging in gambling. In my opinion, these people are like drug addicts, who have to inject methadone after taking drugs. However, the entire process, from drug taking to methadone injection, is endorsed by the Government. Furthermore, both the Government and the HKJC are responsible.

In my opinion, it is impossible for the Ping Wo Fund to truly resolve the problem of pathological gamblers. To prevent gambling from spreading

unchecked and expanding, the authorities must refrain from vigourously publicizing gambling. Let us look at the World Cup Finals matches this year. Although the Government has kept saying that excellent efforts have been made, given that betting slips valued more than \$70 million have been seized from illegal bookmakers, the publicity on soccer playing and betting in newspapers and the non-stop publicity on gambling on radio and television have continued to lure people into gambling. Then, the Government even raised the idea of offering assistance to pathological gamblers under the Ping Wo Fund. Despite Dr CHEUNG's proposal to increase funding for the Fund, the additional funding is merely like a few drops of water splashed to put off a big fire. How can we expect it to work? It is surprising that the Government, responsible for the big fire, should have requested the HKJC or the Government itself to put aside some money for the setting up of the Ping Wo Fund in the hope of extinguishing the uncontrollable fire. Is the Government doing this to gloss over itself? Can the problem of pathological gamblers be truly resolved? I guess not.

Under such circumstances, I will therefore object to all the legislative amendments, as well as the Second and Third Readings of the Bill, because the gambling problem cannot be resolved in this way, particularly through the setting up of the Ping Wo Fund. If the Government is really determined to tackle the gambling problem, it should not allow the media to publicize gambling indiscriminately. Can the Government help those people by spending just tens of millions of dollar? How much would have to be spent if the money spent on publicizing gambling and teaching people how to gamble on newspapers are turned into advertisements? The amount of money spent would be around \$80 million to \$100 million a day (including advertisements on radio, television and newspapers).

I feel that the Ping Wo Fund, as well as its resources, is entirely out of proportion. Under such circumstances, Chairman, I cannot support the CSA and the entire Bill. Thank you.

MR LEE CHEUK-YAN (in Cantonese): Chairman, why did I vote against the Bill at the resumption of the Second Reading debate earlier on? In fact, the entire HKJC has basically changed its nature. It treats its employees harshly; it discriminates against the trade union, and it has gone further to encourage gambling.

Dr Fernando CHEUNG's amendment aims to support the Ping Wo Fund and yet, it is just giving support to a token of redemption. In principle, I think that the HKJC should not have encouraged gambling in the first place, and Dr Fernando CHEUNG is only trying to patch things up for it. The HKJC has encouraged gambling and created the environment for gambling, turning people into pathological gamblers, and then set up the Ping Wo Fund to expiate its sin. So, what it has done is meaningless. That said, it indeed needs a redemption because this situation will go on anyway. Honestly speaking, disregarding whether the Bill is passed or not, the entire strategy of the HKJC still remains to be encouraging gambling. So, while it is said on the surface that the objective is to combat illegal bookmaking, what has been done is actually helping the HKJC.

Sometimes, I would think that there is no distinction between the two. Illegal bookmaking is gambling; the HKJC is gambling too. Both are channels of gambling, just that illegal bookmakers may be even more unrestrained, for they even do not have to take out any money while the HKJC must make contributions anyway. Certainly, we support that actions be taken to combat illegal bookmaking, but the HKJC should not encourage gambling.

So, Chairman, with regard to the amendment, if we do not get to the root of it and point out the problem of the HKJC encouraging gambling, then I think this amendment would not be meaningful. The HKJC would give its employees some scripts. For instance, they are told to say to the customers, "Any selection for tonight?" If the customer said no, then the employee would say, "There is a match on 4 March this year, and tonight, it is Real Madrid playing against Club Atletico de Madrid. The Real Madrid has played remarkably well in recent matches, winning four matches in a row in home field with 14 scores, which is really not bad; the Club Atletico de Madrid has won all the last six matches, including the one in which it beat home-team, top-ranking Barcelona 3:1, so it is in quite a good shape recently. What do you think about this match tonight? Would you like me to fill in a Home/Away/Draw (HAD) for you?" I do not know what a "HAD" is but I think people who take part in gambling will know. This question of "Would you like me to fill it in for you?" is to tell the employees to place bets for customers. The customer said at first that he did not have any selection and he might not wish to place a bet, but the employee would suggest him to place a bet and fill in a "HAD" for him. These scripts had put immense pressure on the employees. If they do not say to the

customers what is on the script, they would be given very low marks in their future performance appraisal and might even have their bonus deducted.

So, Chairman, I think insofar as the amendment is concerned, the biggest problem is that we must address the problem concerning the role of the HKJC at root. Should the HKJC, being a charitable organization, actively promote gambling? The HKJC may have financial problems at the moment as the number of punters on horse races has begun to drop. But the HKJC is already allowed to accept bets on soccer matches and yet, it still seeks to encourage gambling. In fact, we should actually be glad to see a drop in the turnover of the HKJC, for this proves that gambling is not too rampant in Hong Kong. However, the HKJC has been exerting its utmost to promote gambling, and I think this is a very unhealthy development in society.

For these reasons, on behalf of the Hong Kong Confederation of Trade Unions, I oppose the Bill in its entirety but I support the redemption mechanism. However, I think the provision for this system to expiate its sin is too limited, as only \$30 million will be provided for the purpose, and that the HKJC has consistently been at odds with the trade union is, I think, deeply regrettable. Thank you, Chairman.

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, Dr Fernando CHEUNG has proposed to amend clause 15 of the Bill to add a section to the effect that the Hong Kong Jockey Club (HKJC) shall transfer to the Ping Wo Fund not less than 1% of or \$30 million out of the amount, whichever is greater, representing the difference between the net stake receipts and the horse race betting duty payable. The Administration does not agree to the proposed amendment. The purpose of establishing the Ping Wo Fund is that no direct relationship shall exist between this Fund and the betting industry. Therefore, the Government has not resorted to using the law to mandate the taking of a certain percentage from betting duty to finance the Fund. It is hoped that a more flexible and independent mode will be used to accept donations from the public which will be entrusted to the Secretary for Home Affairs. The Ping Wo

Fund Advisory Committee will give advice to the Secretary for Home Affairs on the use of the Fund. Such an arrangement will ensure that the Fund can operate independently, free from the influence of the interest of the betting industry. Hence the independent nature of the Fund can be maintained.

Dr CHEUNG's amendment serves to violate and unsettle the philosophy and basis of establishing the Fund by mandating that the horse race betting conductor, that is, the HKJC, shall be the only contributor to the Fund. This will in effect compel the HKJC to allocate an annual sum of \$30 million or more for this purpose in addition to the guaranteed amount of betting duty of no less than \$8 billion per annum. This is in serious breach of the agreement reached between the Government and the HKJC from the outset.

Furthermore, we consider that the proposal to allocate a fixed percentage of the revenue from betting duty to support counselling and treatment services provided to problem and pathological gamblers is not the most desirable and suitable approach to take. Public demand for gambling rehabilitation services may fluctuate and so fixing the amount of funding is not the most cost-effective practice. Conversely, when such a need arises, the Government may discuss with the Ping Wo Fund Advisory Committee and sectors across the community to increase the funding and contributions made to the Fund. The HKJC has pledged voluntary contributions to the Ping Wo Fund and during the deliberations of the Bills Committee, the HKJC has agreed that an annual contribution of as much as \$15 million will be made to the Ping Wo Fund in the 2006 to 2008 period. The HKJC has also agreed to consider increasing the funding when genuine needs arise.

For these reasons, we consider that there is no need to specify the funding arrangement in the Bill. This amendment proposed by Dr CHEUNG will only lead to inflexibility in funding arrangement besides causing technical problems in practice. The Administration opposes this amendment and we implore Members to vote against the amendment proposed by Dr Fernando CHEUNG. Thank you, Madam Chairman.

DR FERNANDO CHEUNG (in Cantonese): Chairman, the Secretary and some Members opposing my amendment categorically said that the HKJC had made undertakings and that it would be prepared to make donations, but these undertakings could not be explicitly set out in the legislation.

As mentioned earlier on by a number of colleagues, including Mr Andrew CHENG, Mr Frederick FUNG and Mr LEE Cheuk-yan, we all know from the statistics that the needs in this respect are far beyond the capacity of the resources currently available under the Ping Wo Fund. This amendment is only very humble, and it is still a long way from meeting the needs because the amendment only proposes a small increase of the resources. Also, we hope that the Government can at least make comparable commitments.

The amended Betting Duty Ordinance will provide more flexibility, but we are concerned about the impact of its sequelae on to society. Therefore, checks and balances should be put in place accordingly and resources must be increased for necessary services, but even this is not accepted. Does the Government wish to sweep the board, and does it want to have whatever way it likes?

The new measure may cause sequelae to society, such as pathological gamblers and family problems. When the Government feels like showing mercy, it would grant some favours, but it does not wish to be subjected to any restriction. If certain acts that will cause social problems are allowed to exist by way of their authorization, why can we not, also by way of authorization, ensure the provision of suitable resources to meet this humble demand at the same time? I find this utterly incomprehensible. So, I hope colleagues can support this very humble amendment of mine. Thank you, Chairman.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Dr Fernando CHEUNG 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)

Dr Fernando CHEUNG rose to claim a division.

CHAIRMAN (in Cantonese): Dr Fernando CHEUNG 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 SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man 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, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung and Mr Patrick LAU voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Ronny TONG 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 Frederick FUNG, Mr LI Kwok-ying, Mr CHEUNG Hok-ming and Mr Albert CHENG 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, 26 were present, six were in favour of the amendment and 20 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the amendment and 10 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 clauses, schedules or any amendments thereto on the Betting Duty (Amendment) Bill 2006, the Committee do proceed to each of such divisions immediately 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.

(Members raised their hands)

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

I order that in the event of further divisions being claimed in respect of the clauses, schedules or any amendments thereto on the Betting Duty (Amendment) Bill, the Committee do proceed to each of such divisions immediately after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): Mr Andrew CHENG, you may move your amendment.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I move the amendment to add paragraph (h) to the proposed section 6GB(4) in clause 15.

Madam Chairman, concerning this amendment, I hope that Honourable colleagues — since many Honourable colleagues were not present while I was speaking in the Second Reading debate, I have to reiterate why I have proposed this amendment. I will read out again the promotion scripts and information and services scripts already read out before, part of which Mr LEE Cheuk-yan has also read out just now. However, I still want to cite some of their contents again to illustrate why I have to move this amendment, so that the Hong Kong Jockey Club (HKJC) will be regulated by the relevant legislation and will not be above the law.

The promotion script I am now holding is dated 27 May 2006 and it is the information that front-line employees in off-course betting branches have to provide to customers on seeing them enter and the information is, as this script says, for promotional purposes. One of the points in this promotion script which I have not read out is that there is a clear distinction between regular customers and new ones.

For new customers, an employee has to first cater to the customer's needs before making the recommendations of the day — Madam Chairman, it is written here that the employee must go on to say, "Perhaps let me introduce the races this time to you because for the trio today, each bet is \$10 and the payout for one single winning bet is estimated at \$230 million.". Madam Chairman, it really is written this way. Since you were not present, I have made it a point to read it out to you. I believe you rarely go to any off-course betting branch.

It is also set out therein what should be said if customers are interested but do not know how to place bets. That is, "We have a tips index, which is calculated by computer with reference to the analyses done by newspapers and the media on the fitness of the horses and the chances of winning this time. If you are interested, you can try win and place." If the customer is not interested, the script also says that it does not matter and an employee can go on to say other things, "Why not place a computer-generated trio bet, since there is a jackpot this time?" If the customer still does not want to place any bet, an employee can still say, "That's fine. Here's some information." Then he can hand a pile of information material to the customer for his reference. If the customer accepts the information, an employee can then say, "We accept advance bets on jackpots. We are now accepting advance bets on the Dragon Boat Festival jackpot to be drawn on 30th of this month. If you are interested, I can place a bet for you."

Throughout, a persevering attitude is taken in respect of new customers, even more so than the Democratic Party is towards the amendment it proposed today. However, we are in fact feeling woeful amid laughter. How did Mr LEE Cheuk-yan and we get this sort of information? That is because we often receive complaints from workers who said that they had been subjected to a great deal of pressure because they would receive different promotion scripts every day.

The promotion script for 16 July 2005 has to do with football betting. To new customers, an employee has to say, "Mister, are you into watching football matches?" That is, when an employee sees new customers walk into an off-course betting branch, he has to ask them if they are into watching football matches. If the answer is in the affirmative, then the employee has to ask, "Mister/lady, what are your choice picks for this evening?"

If the person is a regular customer and it is already known that the person is not into watching football matches, the employee has to say, "Hey, the match for the CONCACAF Gold Cup Quarter-final this evening features the United States against Jamaica and the United States is on home turf, so their fighting spirit is running high. In its two recent matches, Jamaica managed to force its adversaries to a draw, so in this match, it has the potential to force its adversary to a draw." If the customer shows the slightest hesitation, the employee should then ask, "Which side do you think will win this evening, the United States or Jamaica?" The customer will naturally reply, "I guess the United States will win." The employee will then say, "In that case, perhaps let me fill in a correct

score slip for you first. Apart from the bet type of correct score, you can also bet on HiLo and that would be betting on high goals for the United States, so let me also fill in a HiLo slip for you."

Madam Chairman, these promotion scripts are really perplexing. After the Legislative Council approved the authorization of football betting back then, according to the claims of the officials from the Bureau concerned seated here, this sort of guidelines should not exist. However, on 16 July 2005, they could still be found in the HKJC and they exerted a great deal of pressure on the employees of the HKJC. Therefore, I hope Members will understand this. It is only after I had handed such information to Mr Stephen FISHER that the HKJC eventually stopped using such promotion scripts during the recent World Cup Finals matches and call them information and services scripts instead.

In the past, there were some very interesting lines in this sort of promotion scripts. Apart from having to follow them closely, employees of the HKJC — alright, Madam Chairman, I have one about the World Cup Finals held on 15 June and the first thing stated here is the aim of such services, "These scripts provide important information to colleagues daily and assist colleagues in providing quality service to customers. Colleagues can provide the relevant information to customers according to their needs. If customers do not want any information from us, colleagues can end a conversation politely. Providing quality service you can be proud of."

All right, the Talk of the Day for this evening is the Group A and Group B matches of the World Cup Finals. "Hi, can I help you?" If the person is a new customer, the employee should cater to the needs of the customer first before making the recommendations of the day. "Shall I introduce the exciting matches this evening to you?" If the customer says that he does not watch football matches, the employee can say, "What else can I do for you? We can provide a lot of information to you."

If some customers say that they watch football matches but seldom bet on them, the employee will begin to make recommendations, "The focus this evening is the Group D matches in which England will play against Trinidad. England won in its first match last time and in its last eight matches, it won seven of them, so it has some advantages, whereas Trinidad did not have stage fright in the last match and held Sweden to a draw, so its defence and fitness are quite

good. Here is some latest information on the World Cup Finals and you can take them home for reference."

Madam Chairman, we can see that there are some differences between these two scripts and this I agree. In other words, we can see that although these so-called services scripts or information and services scripts are less pushy than promotion scripts and less promotional in nature, they still exert immense pressure on front-line employees. This is because the information on the goals and objectives which we have got hold of and which we have mentioned — they are required to meet goals and objectives and have to curry 30 000 new betting accounts each month, and it is stated in brackets that age does not matter. It seems that such incessant demands run counter to the HKJC's practice of not promoting and encouraging gambling.

In relation to this amendment, the Government has also told us that it will not give the HKJC too much of a free hand and will rationalize the system. This amendment proposed by me today seeks to introduce a new operator for horse-race betting and I hope the Government and the HKJC will set down in black and white in the licence conditions that high-value bets refer to those at \$10,000 and the rate of rebate shall not be more than 10%. They should not, as when football betting was authorized in the past, refuse to stipulate the requirements clearly in the guidelines and in the legislation despite our requests, saying only that the HKJC would be regulated by means of guidelines, so that in the end, things have come to the pass as described by me.

Today, the HKJC tells you that \$10,000 is considered high value. Later on, when it sees that the illegal bookmakers are really making a lot of money, it will change its claim, saying that \$5,000 can already be considered high value. If things go on like this, it will accept as little as \$3,000 as high value and offer rebates. It will then say that 10% will not do and the rebate has to be increased to 20% or 30%.

I hope the Government will understand that the greatest difference between our position and that of the Government is that the Government should know that it can never compete with illegal bookmakers because when people win, they can take all the dividend but if they lose, they only have to pay 70% or 80% of the bet, and they can even ask for credit without having to pay immediately. The greatest fun in placing bets with illegal bookmakers lies in not having to pay

immediately if one loses. Can you imagine how interesting that is? How can the Government compete with them? The options of betting in illegal gambling are diverse, whereas those of the HKJC have all been formalized, so how possibly can it counter illegal gambling with gambling? Therefore, I have always wanted the Government to understand that to clamp down on illegal gambling, it must target illegal bookmaking and do more about it, instead of taking measures daily only in the period when the World Cup Finals were in full swing. What the Government is doing is right, however, it should not do so only when the World Cup Finals were held. Rather, it has to do something when each race and each football match is being held, because there is illegal gambling on matches of the English Premier League or the Spanish Primera League. The Government claims that illegal gambling involves \$60 billion, yet it can only reclaim a share of several million dollars from soccer bookmaking, so how can the Government convince us that it has done enough?

Madam Chairman, concerning today's amendment, since the Government has specified that high-value bets refer to those at \$10,000 and the rebate cannot exceed 10%, I hope this can be stated clearly in the Bill and become part of the legislation. I hope Honourable colleagues can agree to this. If we do not set this down in the legislation, this will give the HKJC a free hand in changing the definition of high-value bets and the rate of rebate at any time. We believe that only through legislation can the HKJC be prevented from exploiting the loophole in law by changing the rate of rebate and the definition of high-value bets at will.

I also hope the Government will give a direct response to the so-called scripts read out by Mr LEE Cheuk-yan and me respectively, since the Secretary has not responded in any way, nor has he told us what the Government thinks. Does the Government know about them? If it does not, that means the Government has not made adequate efforts in monitoring. If the Government knows about them, that means the Government condones the HKJC in conducting promotions that it should not make. Both of these two prospects make us worry about the amendment and Bill proposed by the Government today. If the Government does not specify the amount of high-value bets and the rate of rebate, the same things will surely continue to occur. I hope Honourable colleagues will support this amendment moved by me on behalf of the Democratic Party, which demands that the relevant requirements be spelt out absolutely clearly, so that the HKJC will not be able to exploit any loophole and

allow their promotional activities to go on indefinitely, thus fuelling the gambling craze.

Madam Chairman, I so submit.

Proposed amendment

Clause 15 (see Annex I)

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

MR FREDERICK FUNG (in Cantonese): Chairman, concerning this Bill, the amendment moved by Mr Andrew CHENG is in fact one of the essential parts of this Bill. The reason for the Government introducing this Bill is that the declined betting turnover of the HKJC, so it wants to clamp down on illegal bookmaking syndicates. The HKJC hopes that betting can be increased through the \$8 billion guaranteed betting duty or through betting rebates. Betting rebates may also become an important means of increasing the betting turnover of the HKJC in future, therefore, Mr Andrew CHENG hopes that the rate of the betting rebate can be specified in the legislation.

In fact, is the falling betting turnover of the HKJC purely the result of illegal gambling, or is it the result of the self-defeating measures adopted by the HKJC? According to some figures, since the authorization of football betting in 2003, the increase in the betting turnover of football betting one year afterwards was 115% but the betting turnover for horse races had decreased. Was the decrease attributable to the increase in the number of bettors on football as bettors of horse races had switched to football betting and consequently, the betting turnover for horse races declined?

As regards the rate of rebate, I find it strange that if we are opposed to gambling, the rebate on bets will only offer more attractions to encourage people to place their bets and the aim is to raise the betting turnover. In what ways will the betting turnover increase? I believe there are only two possibilities. The first possibility is that people who have always been betting will continue to place the same amounts of bets, so how can the betting turnover be increased? To

achieve that, there has got to be more bettors; the second possibility is that if the bets placed by bettors in the past were \$100 each, the aim is to make them raise their bets to \$110, \$120 or \$130, that is, to make them raise their stakes.

I believe there are only these two possibilities. If the Government says that there is a third possibility, of course, it can tell us about it. However, regardless of which possibility, be it the Government's original motion or the amendment proposed by Mr Andrew CHENG, they are essentially the same. We remain opposed to gambling because gambling harms the public. We are opposed to using diverse ways of gambling to attract people to place bets, be it to raise the number of bettors or to increase the amounts of bets. I believe the motion and the amendment is just a case of the kettle calling the pot black. There is no difference between them. Neither of them should be implemented and both of them should be opposed. Conversely, if we think that the people taking part in gambling in Hong Kong should not be so numerous or if the position of the Government is to discourage gambling, what is so bad about the decrease in the betting turnover of the HKJC, what is the problem with it and what is wrong about it?

In addition, will the funding provided by the Government to charitable organizations decrease as a result? This is another issue. If charitable organizations need funding, is the HKJC the only recourse and that it will not do without the HKJC? If the HKJC is the only recourse and it must be ensured that it can pay the \$8 billion in betting duty before charitable organizations can be funded and the Government definitely will not provide this amount of funds or commit itself to doing so, then I believe this matter has to be tabled for discussion. For example, does society accept that the \$8 billion in funding must be provided by the HKJC? Perhaps the undesirable consequence that society has to bear is that more and more people will take part in gambling. Since the Government has admitted that gambling would create more pathological gamblers and consequently, it established the Ping Wo Fund and provided funding to remedy the situation, and since all the beliefs, value judgements and the rationale are all so contradictory and will not work, it is not possible to convince us.

Chairman, in fact, I also wish to provide one more figure to you. According to an estimate made by the HKJC itself, on football betting and horse race betting, the betting turnover of the illegal gambling market is \$50 billion to

\$60 billion each year. It is in fact equivalent to the betting turnover received by the HKJC in respect of horse races, which also amounts to some \$60 billion. However, in the past few years, that is, from 2001 to 2005, the money seized by the police when arresting illegal bookmakers amounted to about \$200 million to \$300 million, that is, it amounted to an average of about \$46 million each year.

If we find the figures provided by the HKJC credible, that is, if the turnover of illegal gambling is really as huge as \$50 billion, then there can be only two possibilities. The first is that the police are not doing a good enough job. Why is it that with a turnover of \$50 billion in illegal gambling, only \$46 million could be seized in law-enforcement actions? The difference between them is 1 000 times, so does it mean that the police are not making adequate efforts? Since the HKJC has an estimate on illegal gambling, can it provide adequate information and clues to the police to enable it to clamp down on illegal gambling syndicates and make more arrests? What has contributed to such a huge discrepancy? This is a very important issue.

Illegal gambling cannot be combated by offering rebates on bets, still less by laying down provisions in the legislation, as Mr CHENG has proposed. I believe this approach is just to have a tussle with illegal bookmakers to see who has more tricks up either's sleeves. When these people come up with two tricks, five tricks are conceived in response. When other people come up with five tricks, then 10 tricks are proposed in response. As a result, after the Government has proposed 10 tricks, illegal gambling syndicates will propose 20 tricks. In fact, both sides are having a duel by proposing more diverse and entertaining betting options. I cannot see how this approach can stem the gambling trend and clamp down on illegal gambling. I cannot establish a relationship between the two at all. As a result, the situation will only deteriorate, with more and more people taking part in gambling and there will be more pathological gamblers.

I always think that our Government is fine in dealing with routines but it is not capable of coping with weird and unusual activities. As the Chinese saying goes, "As virtue rises one foot, vice rises ten". I do not know if the Government is virtuous or devious. Does the Government claim itself to be virtuous or devious? If the Government is devious and it can be just as crooked, in that case, it can resort to various means in clamping down on illegal gambling;

if it is virtuous, then ultimately, it definitely cannot outdo other people by means of the options and strategies at its disposal and win.

Therefore, I believe that the fundamental approach in dealing with this problem is not to resort to various weird methods. Quite the contrary, I believe the police have to get hold of more information on gambling and even make use of informants to uncover more illegal gambling syndicates and tackle them head on, and even to increase the penalties. The Government should in fact consider this matter from this angle, however, the Government did not say that it would consider or address this matter from this angle. Therefore, be it the proposal of the Government or that of Mr CHENG, I believe the idea of rebates on bets has actually fallen into the trap of gambling and the realm of the devious.

Chairman, finally, I wish to provide more figures. Recently, during the World Cup Finals, the police conducted a number of operations to clamp down on illegal football gambling and soccer betting slips valued at \$71 million were seized. This is double the amount seized during the World Cup Finals in 2002. After the World Cup Finals matches started last month, the number of gambling addiction cases received and followed up by the two Addicted Gamblers Counselling Centres increased drastically by 20% to 50%. A third figure that I want to provide to Members is that during the period of the first World Cup Finals matches held after the authorization of football gambling, more members of the public were attracted to place bets. According to a questionnaire survey conducted on the streets by the *Ming Pao Daily*, of the 300 members of the public interviewed, 20% of the respondents said that they were taking part in football gambling for the first time during the World Cup Finals held on this occasion. The fourth figure that I want to provide to Members is that the World Cup Finals matches on this occasion have raked in \$6 billion in betting revenue for the HKJC. According to conservative estimates, the total betting duty from the betting turnover in football betting last year was at least over \$3.1 billion, which is a drastic three-fold increase from the \$9.6 billion in 2003-04.

Just as I have said, if more diverse methods are adopted, there are only two ways that the betting turnover of the HKJC can be increased. One is to increase the number of bettors, and the other is to increase the amount of each bet. If this is the goal, how can the Government tell me that this goal can also reduce the number of gamblers, discourage gambling or reduce the number of problem gamblers?

I often think that the Government loves to patch things together and juxtapose contradictions. I cannot understand this, nor do I think this will work and I cannot make sense of this no matter how hard I think about it. Therefore, I oppose all the motions and amendments relating to this Bill today, be they the so-called motions of principle proposed by the Government, to the multifarious amendments which seek to broaden or reduce the scope. In principle, I believe the whole direction is wrong. Thank you, Chairman.

MR TOMMY CHEUNG (in Cantonese): Chairman, I have listened very attentively to the speeches of Mr Frederick FUNG and Mr Andrew CHENG. A view often expressed by Members during the scrutiny of the ordinances on prohibiting offshore betting and regulating football betting a few years ago and even in the present debate on the legislation on horse race betting duty is that if we do nothing, no one in Hong Kong will gamble; no one will take part in offshore betting; and, no one will go to Macao for gambling. Or, they seem to think that if Hong Kong does nothing, all pathological gamblers in society will vanish.

The presence of pathological gamblers in Hong Kong is related to our culture and people's hobbies and habits. I am of course not saying that other factors are not important, but all this has led to various social problems in Hong Kong. During our discussion on the authorization of football betting last time, we also mentioned the problem of pathological gamblers and Members could see that there were many related problems.

From my many years of experience in the catering industry, I can tell that if there are no legal channels of gambling, many people will resort to illegal gambling. In that case, similar problems will also emerge, but there will be no Ping Wo Fund to tackle the problem of pathological gamblers. While people continue to gamble, the Government will however suffer the loss in tax revenue amounting to \$8 billion or \$10 billion a year. And, charity funds and charitable organizations will also be deprived of the funding of \$1 billion for helping the people. Some Members may be looking at this issue from an idealistic and simplistic perspective, thinking that if we do nothing, all problems will automatically vanish. They may even think that it will be alright even if charitable organizations are deprived of the funding of \$1 billion.

If we do nothing, charitable organizations will lose the funding of \$1 billion and the Government will also lose several billion dollars in tax revenue,

but the same problems will remain all the same, they will not disappear. Chairman, Mr Andrew CHENG was right in saying that you had never been to any off-course betting centre. I have never been to any either. This explains why we have never heard of such a wonderful promotion script. It is fortunate that Mr Andrew CHENG has never assisted the HKJC in its work. Lest, he would probably have advocated the introduction of more forms of betting because he was such a fantastic recounter. Although he spoke very fast, he was very articulate. It made me listen very attentively to his description of a dividend of \$23 million for Triple Trio, and so on. But I have never heard of such publicity before, probably because I only go to the HKJC instead of any off-course betting branches.

Chairman, Mr Andrew CHENG's amendment seeks to include in the Ordinance a formula or rules for setting betting rebate. I am sorry that the Liberal Party cannot support such a proposal. The reason is very simple. This will deprive the HKJC of flexibility, tying up its hands in dealing with the possible competition from illegal off-course betting. We will once again be presented the same dilemma, in which betting duty prevents us from dealing flexibly with illegal bookmakers. This will run counter to the underlying spirit of the Betting Duty Ordinance.

I can of course understand Mr Andrew CHENG's concern that the definition of high-value bets for the purpose of rebate may well be lowered from \$10,000 to even \$50. He is worried that the offer of rebate for bets lost may induce people to place even larger bets. The offer of rebate seems to be good to both sides, and there will be rebate for bets lost. Although I understand why he is so worried and why he wants to make things clear in the legislation, I must still say that the proposed offer of rebate can really enable the HKJC to compete with illegal bookmakers. Mr Andrew CHENG has asked a very good question: How can the HKJC compete with illegal bookmakers? It cannot possibly compete with them. It will certainly lose because illegal bookmakers can allow punters to delay payment when they lose. Of course, it is just payment at a later time, and very high interests may be charged. But we do not want anyone to gamble even when they do not have any money because we are worried that once they lose, they will face even greater problems.

Should we then focus on illegal bookmakers and stop them from allowing people to place bets when they do not have any money? This should actually be

our greatest worry. Precisely for this reason, I think we should give the HKJC more flexibility, because people can only bet with the money they have when they patronize the HKJC. Therefore, they will only lose their own money. I do not wish to see anyone borrow money for gambling. Some people do not have any money, but they still want to try their luck. If they win, they will spend extravagantly. If they lose, they will first delay payment and then try to borrow money to repay the debt. This is precisely what the Liberal Party does not want to see.

As a result, we do not think that this amendment can help the HKJC deal with illegal bookmakers. However, we still propose to include it in the Code of Practice. In this way, there will be both flexibility and transparency. I think this can strike a proper balance. Thank you, Chairman.

MR ALBERT CHENG (in Cantonese): My position on gambling and smoking is the same. When discussing a ban on smoking in committee meetings, a lot of people, including Mr LEUNG Kwok-hung and Mr Tommy CHEUNG, would often challenge me, saying that it would be better if the sale of tobacco was banned altogether. I am all for this. Smoking should indeed be completely banned and the sale of tobacco should also be prohibited.

The same applies to gambling. Gambling should actually be banned, however, the problem is that there is a reality before us. The Bill being discussed today does not seek to ban betting on horse races. If the HKJC is banned from conducting races, I will support it. I have to first of all make a declaration of interest, no matter if it is really necessary to do so or not, so as to prevent other people from squaring accounts with me later — I am a voting member of the HKJC but it makes no difference. If a ban is imposed on gambling and the licence of the HKJC is revoked, I will still support doing so.

However, the issue we are discussing today is the problem of gambling and the position of Mr Frederick FUNG is in fact very clear. I respect him because he has said that he will oppose everything. As regards Mr Andrew CHENG, in fact, he approves of gambling; he only seeks to introduce some constraints so that the HKJC will not be given too much flexibility after the passage of this Bill today. What we have to discuss is whether this is consistent with the spirit of this Bill. In fact, it is not possible to ban illegal gambling.

Football betting has been authorized and in the Ante-Chamber of the Legislative Council, some Members are talking about betting on a football match tonight and the stake is a meal. This is actually also illegal gambling and even betting on a meal is illegal gambling, so it is not possible to ban gambling altogether.

The question now is how to clamp down on illegal bookmaking. As Mr Frederick FUNG said, the police said that the amounts of money involved in illegal bookmaking amounted to nearly \$70 billion — or rather, \$50 billion, however, only a few people had been arrested. I agree with Mr Frederick FUNG's comment that the law-enforcement actions are weak. Frankly speaking, illegal bookmaking is operated by triad societies. One day, I heard Mr CHOI, the police Chief Superintendent of the Organized Crime and Triad Bureau say that he could not see any triad control in illegal football betting. That nearly made me choke with laughter over a meal. If illegal bookmaking is not operated by triad societies, do you really think that illegal gambling is all about betting on a meal, as Members of Legislative Council are doing? Of course, they are Legislative Council Members, not triads.

However, Chairman, no matter what we do, we will not be able to stamp out illegal bookmaking altogether. What we have to do is to find ways to make the public place less bets with illegal bookmakers, therefore, we have to give the HKJC some flexibility. Just now, Mr Andrew CHENG said that at present, it is specified that a bet of \$10,000 is considered a high-value bet and in future, this may be lowered to \$5,000 or \$3,000. I believe this will happen. At present, in illegal gambling, rebate is offered even on a bet of \$10, furthermore, it is also possible to ask for credit and defer payment. What Mr Andrew CHENG said is all correct.

As regards Mr Andrew CHENG's claim that employees of the HKJC have to make promotional efforts, I am against it. It is indeed an eye-opener to hear what he said. It was the first time that I heard of this sort of things and I was also shocked. I think the approach of the HKJC in this regard is inappropriate, that is, it must not be too aggressive. However, we must bear in mind one point, that is, they are not encouraging people to bet on horse races in the streets, nor did they go to the entrances of Prince's Building in Central, the entrances of the Legislative Council Building or the pedestrian precincts in Mong Kok to hail "the payout tonight is \$23 million". They are not behaving like the characters in the Cantonese films we watched in the past, who shouted in alleys, "Go in if you want to strike it rich". They are not behaving in this way.

Those people have already entered the off-course betting branches of the HKJC. Why do they go there? I myself have never gone into one and he said that the Chairman will never go either — I do not know if the Chairman has ever gone to one, however, since I do not place any bet, why would I ever go in? If I want to place bets, naturally I will go inside, however, since I have never thought about placing any bets, I will never go in even if I pass by one. If someone has already gone inside, there is nothing wrong with providing information to them. Now that I know the HKJC offers this kind of analyses and even provides tips, I must go inside one and have a look in the future. I do not think this is a problem at all because people who have already gone inside — Chairman, unless someone can prove that they originally did not intend to gamble and they go in just to nose around to see how others gamble because they have nothing better to do. I do not think there are people like this, although there are all sorts of people in Hong Kong and there are even "Bus Uncles".

The point is that people who have gone into off-course betting branches already have a mind to gamble and the money in their pockets will not increase after the employees of the HKJC have directed their promotional efforts at them. If a person originally intended to place a bet of \$10, he will just bet \$10; if he has got \$20, he will just bet \$20. As regards illegal gambling, unfortunately, I have not done any research. If I were to do one, I would want to find out how illegal bookmakers encourage others to gamble.

As I said to Mr Tommy CHEUNG just now — no, it should be Mr Andrew LEUNG — going into the race course to bet will not make one lose all one's possessions because no one will take all one's possessions with him. However, taking part in illegal gambling can really make one lose all one's possessions because there is no need to pay immediately at all, just as Mr Andrew CHENG has said. In placing bets with illegal bookmakers, originally one may have intended to place a bet of \$10 but will end up placing a bet of \$100; one may have intended to place a bet of \$100 but will end up placing a bet of \$1,000; and it is not surprising at all if one ends up placing a bet of \$10,000 even though one may have intended to place a bet of \$1,000.

Why do I hate triad societies to my guts? Because I believe illegal bookmaking is a major source of income for triad societies. We must clamp down on illegal gambling. As regards charity, I also agree with Mr Frederick FUNG's remark that if the funding for charitable organizations has a shortfall of

\$1 billion, then the Government should take care of it. It is not always necessary for the HKJC to foot the bill.

I have not looked at today's Bill but if I were to propose amendments, I would propose a ban on gambling and the revocation the HKJC's licence. I will support such moves. If some weapons have to be provided to the HKJC so that it can deal blows to illegal bookmaking, I believe I am duty-bound to support them. If we think that we cannot authorize too many things, then we should simply oppose everything like Mr Frederick FUNG does. If high-value bets are specified as those at \$10,000, I think it is really too high and I cannot see how illegal bookmaking activities can be dealt a blow. In fact, we should give the HKJC flexibility and let it examine how illegal bookmaking can be combated effectively.

Mr Frederick FUNG said that "As virtue rises one foot, vice rises ten". This is correct. It is likely that this Bill will be passed today. However, if Members who support it, I myself included, think that illegal bookmaking can be dealt an incapacitating blow, this will be self-deceiving. If they have such thinking, they should vote against it. However, I think that if this Bill is passed this time around, at least it can help dent illegal bookmakers. However, I also believe that doing so can only dent but not completely wipe out illegal bookmaking. Any belief that it can be totally wiped out is only self-deception.

As regards pathological gamblers, in fact, it is only after the authorization of football betting that the Ping Wo Fund was established and the figures became available. The gambling problem is very serious. As Members all know, the public can bet on horse races, on football matches, go to the casinos in Macao, go to gambling dens and play mahjong. As Mr Tommy CHEUNG said, his constituents often gamble together secretly in kitchens and they also gamble during their breaks. These problems do exist, so how can we solve them? This problem cannot be solved by merely opposing or supporting this Bill. This is a social problem that cannot be solved.

The stake is even greater when one gambles on warrants. I believe the problem relating to warrants is even more serious. Just now, the remarks that Mr Andrew CHENG recount with great liveliness can be heard only in off-course betting branches. However, we can hear some people teach others how to gamble on warrants on the radio every day and it is even stated clearly that they are qualified persons who have obtained licences from the Securities and Futures Commission. The betting turnover for warrants in a single day is

much higher than that of the HKJC. I believe this should be the problem that really warrants our attention.

Chairman, in reality, it is the Government that issued the licence to the HKJC. Formerly, it was authorized by the Queen and I wonder if it is now authorized by the Chief Executive. I do not know who authorized it to operate the gambling business. Since it is allowed to operate the gambling business, we hope that the HKJC can be given flexibility through legal channels, so that it can combat illegal bookmaking as far as possible and the money will not go into the pockets of triad societies. This is the reason for my support of the Bill. Therefore, I have no alternative but to support today's Bill and oppose Mr Andrew CHENG's amendment, no matter if there is any bundling or not. I so submit, thank you, Chairman.

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

(Mr Frederick FUNG raised his hand to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr Frederick FUNG, speaking for the second time. Please.

MR FREDERICK FUNG (in Cantonese): Chairman, thank you for permitting me to speak for a second time because after listening to Members' remarks, I would like to make a response.

I think the voting on this Bill today will be very special. Those on the side of the Government will support the Second and Third Readings of the Bill but will oppose all the amendments. Those against the Government will oppose the Second and Third Readings of the Bill but will support some of the amendments. As for me, my position is outright opposition. I suppose my voting decisions should belong to a third category.

Actually, I think my position is very consistent. By this, I mean that I do not think the proposal can achieve what the Government claimed to achieve when submitting the Bill to the Legislative Council — I do not believe that it can help to tackle illegal off-course betting, help some people without increasing,

expanding the gambling problem, and help some people whom we call problem gamblers. Therefore, I feel that it will not be feasible to introduce any amendments, both from the perspectives of principle and technical considerations. That being the case, how can I support the underlying principle but oppose the amendments? Or, how can I support the amendments but oppose the underlying principle? I think these two positions are contradictory. They should not be adopted, and it is even wrong to adopt them.

Those who support the amendments must also answer the questions I have asked. As clearly indicated by survey statistics, the number of first-time gamblers has increased by one sixth as a result of the recent World Cup Finals. Why? If the regulation of football betting can alleviate the gambling problem in Hong Kong, why has the number of first-time gamblers increased by one sixth? When the Government introduced the legalization of football betting years back, it already claimed that it had come up with various measures to tackle the gambling problem. But all these measures have been proven impracticable. The value of football bets has increased by 100%, and the number of bettors has risen by one sixth. The Government should tell us why. Those who support the Bill should also tell us why.

Members argue that the Bill seeks to reduce the patronage of illegal bookmakers. But the direction is actually wrong. The Bill should enable us to know how the number of bettors patronizing illegal bookmakers can be reduced. It should also let us know how it can prevent the patronage and betting turnover of the HKJC from increasing.

Only this can be called an integrated scheme enabling us to know how we should approach gambling and the legalization of gambling. Everyone keeps saying that illegal off-course betting must be stopped and all gamblers must patronize the HKJC. There are now already 3 million gamblers, and we seem to be suggesting that there is nothing wrong even if there are 7 million gamblers, because we are just calling upon people not to patronize illegal bookmakers. I however think that this is wrong because the number of gamblers has increased. Our main direction should be the reduction of the number of gamblers and betting turnover. I do not care whether people will patronize illegal bookmakers or the HKJC. Whatever the case may be, it is still wrong to gamble, right? Why should we clamp down on illegal off-course betting and divert all the money to the HKJC? I hold that we must clamp down on both.

Any other directions are wrong. Actually, all Members who spoke just now and also the Government have invariably failed to address this problem.

Chairman, my voting decisions are very special. But I am guided by my own clear views. I hope that the relatively radical and emotive remarks I have made can convince Members that they should side with me in adopting the position of total opposition.

Thank you.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for Home Affairs.

MR ANDREW CHENG (in Cantonese): Must I wait until the Secretary has finished before I speak?

CHAIRMAN (in Cantonese): I shall let you speak after the Secretary has finished his. Be patient. You are the mover of an amendment. Secretary, you may now speak.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Chairman, first of all, I wish to respond to Mr Andrew CHENG's question concerning an allegation received from HKJC employees about hard-selling soccer and horse race bets, and Mr LEE Cheuk-yan and Miss CHAN Yuen-han also mentioned this earlier on. In fact, the Government has already requested the HKJC to thoroughly look into this matter and submit a detailed report to the Government. If the allegation is substantiated, the Government will consider implementing further measures and when necessary, refer the case to the Football Betting and Lotteries Commission for follow-up, and we will implement follow-up measures on the suggestion of the Commission.

Mr Andrew CHENG moved an amendment to section 6GB of clause 15 of the Bill to the effect that a formula and rule to determine the rebates payable shall be specified. The Administration does not agree with this proposed amendment. With regard to this proposed amendment of specifying a formula and rule to determine the rebates payable, the spirit of the reform proposals is to provide flexibility to the HKJC for it to respond to market demands more flexibly, with a view to combating illegal bookmakers more effectively. Therefore, we do not agree that the formula or rule to determine the rebates payable should be set out in the Ordinance.

The Government holds that rebates should be available only to high-value bettors who have placed a losing bet. Insofar as the standard bet is concerned, a bet of \$10,000 or more is considered a high-value bet. Under this principle, the HKJC can, in the light of response in the market, assess the most appropriate rebates arrangement for the purpose of attracting high-value bettors who are currently betting with illegal bookmakers and directing them back to the legal channel. If the rule for calculating rebates is specified in the Ordinance, it would affect the flexibility of the licensee in adjusting betting methods and hence undermine the competitiveness of the licensee and also the effectiveness of measures to combat illegal bookmaking.

The Government would keep close watch on the effectiveness of the initial operation of rebates by the HKJC and if necessary, the Government will certainly set further guidelines in the Code of Practice. For these reasons, the Administration opposes this amendment and urges Members to vote against it. Thank you, Chairman.

MR ANDREW CHENG (in Cantonese): First, I wish to respond to the comments of Mr Frederick FUNG and Mr Albert CHENG, however, it so happened that both of them are not in the Chamber now, in that case, I will not respond to them for the time being. I will first to respond to Mr Tommy CHEUNG because he is here. First, I think that today's debate reflects to a certain extent Members' views on gambling.

In fact, as I said at the resumption of the Second Reading debate, I agree that to some extent, gambling indeed has its significance and serves certain functions in society. It will not do if there is no gambling, however, gambling has to be subjected to some measure of constraint because human nature has a

weakness and this weakness is that the stakes will grow bigger. As an old-time saying of the Chinese goes, "Losing money in gambling all starts with winning." When someone wins money, he will be jubilant, thinking that he is very good at gambling, so he keeps gambling and in the end, he loses money, and since he keeps losing money, he wants to win back the money lost, so his stakes get larger and larger. This will just go on and on without end.

All right, since there is this sort of weakness in human nature, so who can keep such human weakness in check? The Government is one of the gatekeepers. Therefore, all along, we hope that the Government can act as a gatekeeper and it cannot allow the gambling culture to expand unchecked. Why did we oppose the authorization of football betting back then and why do we also oppose this Bill today? I am not really excessively idealistic, as Mr Tommy CHEUNG put me. I reiterate that people opposed to gambling, religious groups or teachers' groups, of course have their moral principles, codes of conduct and beliefs, however, please do not always put people opposed to gambling, football betting or this Bill today on the moral high ground. This is not how we are like.

As I have already said, this is all about self-control and about the increase in social costs in future as a result of the ills wrought by the Government's gambling policy. Throughout the world, a lot of academics have conducted a lot of studies and they have all come to the view that after lifting the ban, there is no turning back and as there is no turning back, the burden and costs borne by the Government are far more than the revenue that it receives from the duty.

What we are requesting is not that nothing whatsoever be done and in that way, pathological gamblers will disappear. I have never said so and I have never said that the Government should do nothing, should not introduce the so-called rationalization to the system and members of the public will thus not become pathological gamblers either. I have never said so. I agree with the claim that pathological gamblers make up only a small proportion of the gambling population. All along, I hope that the Government will set about the task by clamping down on illegal bookmaking first, instead of countering one type of gambling with another and this is the greatest difference between me as opposed to the Government and Mr Tommy CHEUNG of the Liberal Party. It is not idealism that we are insisting on. We only hope that illegal bookmakers

can be combated. This is what I have been saying all the time. How can the Government possibly compete with them? As long as one can still find illegal bookmakers or they can survive with little difficulty, the public will only increasingly like to engage in illegal gambling.

Although Mr Albert CHENG and Mr Frederick FUNG are still not present, I have to continue to speak and respond, so as to put my responses on record. I have full respect for Mr Frederick FUNG's decisions on voting. He has voiced his opposition throughout and initially, the Democratic Party also hoped to do so. In fact, had Mr Frederick FUNG taken part in the deliberations of the Bills Committee, I believe that apart from making the discussions in the Bills Committee more lively, the debate on gambling policy would also have been more thorough. However, it was a shame that at that time, the people who spoke up all the time were none other than Dr Fernando CHEUNG and me. While some Members just walked in and out, we were contending over this issue. Why do I oppose the resumption of Second Reading but propose such an amendment?

Mr Albert CHENG has just come in. I have to clarify that I like to debate with Mr Albert CHENG very much because he is a very good opponent in debates. However, Mr CHENG has to understand before all else that I do not approve of this Bill. The fact that I have moved an amendment does not mean that I approve of the Government's position. With a sense of helplessness, after this Bill has passed the Second Reading and come to Committee stage, I want the Government to know that I believe the Government's amendment concerning the so-called high-value bets will prove attractive to an infinite number of people, and even people who used to not gamble will become gamblers and people who have the habit of gambling will continue to gamble. Moreover, this latter group will place even larger bets because there will be rebates for high-value bettors. I have to curb such a trend, therefore, I want to incorporate this into the system through an amendment, so that the impact can be reduced to a minimum. In moving this amendment, it does not mean that I accept the Government's principle, only that I hope this principle espoused by the Government will not continue to harm society.

I have heard the comments made by Mr Albert CHENG and found that there are some ambiguities. He can clarify later because one can speak again today. He said at the beginning that it was an eye-opener when he initially learned about those scripts. This is not correct. However, later on, he said

that since those people have entered the off-course betting branches, those scripts will not have any effect on them. Since those people have a mind to bet on football matches, horse races or the Mark Six, those scripts will not affect them and make them lose more. Listening to his talk, it appears that he supports the use of those scripts. This is exactly our worry. On first hearing them, such promotional lines appear unacceptable and they are in fact not allowed according to the so-called Code of Practice. However, as we talk about it, we will gradually think that it does not matter because people want to gamble anyway, moreover, they also contain some information, so one can say that this is quite nice.

However, Mr CHENG, let me read out some lines to you, since you were not present just now. I read them out when I moved my amendment — or in the debate on the resumption of Second Reading — the script concerned targets new customers and one of the lines says, "Trio — \$10 per bet, \$23 million payout for one single winning bet." This could be found in the script for 27 May 2006. To customers who have not decided on their best picks, they may not place any bet after being cajoled by the employees of the HKJC for a while. After that, what would the employee say? Mr CHENG, I think you were not here just now, anyway, I still hope that you can now listen carefully. If a regular customer still does not feel like placing any bet and wants to leave, the employee will pursue and say, "If you have some best picks of your own for other races, you can consider playing All Up. This way of play is even more flexible and you can use different pools to make a Cross Pool All Up. I have the recommendations of some experts here too. If you have time, you can refer to them." These lines are sung when an employee asks a regular customer coming into an off-course betting branch if he has any personal best picks. Even if a regular customer does not appear inclined to discussing his personal picks, the employee still has to say, "We now accept advance sale for the jackpot. Advance sale is available for the coming jackpot for the Dragon Boat festival on 30th. Let me fill in a betting slip for you." Be it the trio for 27 May, which one can use \$10 to try one's luck and win \$23 million, or the Dragon Boat Festival jackpot, this type of promotional tactics is used. Honestly, with such tactics and on being cajoled by the employees, how possibly can some people who initially intend to place only a ten-dollar bet not place \$20, \$30, \$50, \$100 or even \$1,000 instead? Moreover, since these employees have received a lot of training, they can definitely utter those lines in livelier ways than I can — I am only reading out the script but they do not even have to read from it.

Moreover, they will make eye contacts and gestures, and even tug the bettors along to show them where to place their bets.

This is what I want to tell Members today. Although we feel that gambling serves its functions, at this breaking point of the gambling problem, it is necessary for the Government to serve as the gatekeeper. Therefore, I hope Members who have spoken just now will understand the reason for my moving this amendment and I hope Mr Frederick FUNG in particular will understand, since he said that all along, no one had ever accosted him, nor had he ever been persuaded by any advertisement he had come across. I respect his opposition stance, however, I hope he can understand my reason, for I have moved this amendment to reduce the harm to a minimum. In fact, when Members speak, their aim is the same. What I often say to Mr Tommy CHEUNG and Mr Albert CHENG is exactly what they have said just now, that is, it is the indescribably vile triad societies that control illegal bookmaking activities and herein lies the problem. The Government cannot convince us that it can combat illegal bookmaking activities. In view of this, on the one hand, the Government has not succeeded in clamping down on illegal bookmaking and on the other, it allows the employees of the HKJC to engage in a lot of promotion activities that violate the Code of Practice. How can I believe that this amendment moved by the Government today can really achieve the end of improving the system as I would ideally have it, instead of making gambling proliferate infinitely?

Then, having heard Honourable colleagues speak and on hearing Mr Albert CHENG say that he supports setting the amount at \$3,000 or \$1,000, I am even more alarmed and this is precisely the proof. As Members speak, they will gradually find illegal bookmaking more and more interesting and it will be practically impossible for the Government to clamp down on it. Why should Members support Mr Andrew CHENG in setting high-value bets at \$10,000? This is because sooner or later, \$10,000 will be changed to \$5,000 and \$5,000 will be changed to \$3,000 or \$1,000, then this concept will even nearly disappear altogether. This is what we feel concerned about.

Of course, Members have different views and they all have their own yardsticks in their minds on what amounts to high-value bets, what a gambling trend is and who can be considered pathological gamblers. I admit that this yardstick can vary from one person to another, but there must still a standard. Since the Government has mentioned high-value bets today, we hope that a level

can be established. If Members think that even \$1,000 can be considered high-value bets, we will be caught in a battle with illegal bookmakers in accepting bets. If the struggle goes on in this way, this will be a gambling policy that will lead to the downfall of gamblers and make them sink deeper into a quagmire. Here lies the difference in thinking between some Members and me.

Madam Chairman, Mr Frederick FUNG has now come back. I only hope he can hear that I respect him as a representative of the Hong Kong Association for Democracy and People's Livelihood (ADPL) and perhaps because his organization is represented by only one Member, he could not join the Bills Committee. Had he joined the Bills Committee, that would have been a fairly desirable arrangement and there definitely would have been a thorough debate on the gambling policy. I also highly approve of the stance taken by the ADPL today, that is, they are opposed to the Bill from beginning to end. However, I hope Mr Frederick FUNG will understand that I only want to constrain the Government by means of this amendment, to prevent it from doing greater harms. Mr Frederick FUNG, my stance is very similar to yours. However, I still want to move my amendment, the reason being that since the Bill has passed Second Reading, if no amendment is made, the effects will be tremendous. Moving the amendment may not be very desirable from my viewpoint, or yours. People will ask why it is necessary to attract bets by means of rebates for high-value bets and compete with illegal bookmakers. This is not desirable, however, one can say that this is the lesser evil. Mr FUNG, I hope that I can persuade you from this angle to think twice and consider supporting this amendment of mine. I have also gone through the same struggle as you have. I also hope that I can oppose it out and out, however, if I do so, it seems I cannot live up to my conscience. Therefore, I can only attach some conditions so that after the Government's Bill has passed Second Reading and after it has been amended, there are some rules so that the harm can be reduced to a minimum. This is where the difference between you and me lies.

Madam Chairman, I so submit.

MR ALBERT CHENG (in Cantonese): Chairman, I did not know that I could speak again. This is of course good because Mr Andrew CHENG has challenged me. First, when he spoke, I was in the Chamber. Although he said I was not, actually I was sitting right here.

I had listened to his speech in full. His description was very vivid. However, I have already said in my speech that I opposed the HKJC's adoption of such an aggressive approach of "touting customers". And I shall convey this concern to the top management of the HKJC because I disapprove of such an approach. I do not know why Mr Andrew CHENG thought that I supported it. All I had said was that the HKJC had not gone out to the streets to tout customers. Instead, they have just launched some promotion with their so-called regular customers and new ones, that is, those customers who have made up their mind to enter the betting centres to place bets. So I think the impact is not too substantial.

Besides, Mr Andrew CHENG has driven home one very good point, that is, those people who originally only intend to place a single bet of \$10 may eventually be persuaded into placing bets of \$100. This is true. However, I reckon that, in the worst scenario, all such people can spend on betting would only be limited to the \$100 in his wallet. But the scenes of people placing bets with illegal bookmakers, as I had described earlier, would not take place — just a phone call and with some persuasion, they could place bets up to \$1,000, \$10,000 or \$100,000, or even as much as that can be paid by credit cards, and these people will eventually end up committing suicide after being hard pressed by loansharks for repaying the debts. This is a problem, but the problem we must face squarely is: How can we combat illegal gambling?

With regard to Mr Frederick FUNG's earlier comment that he did not understand what I had been talking about, I think what he probably meant to say was that more people have taken part in football betting after its legalization. Of course, I agree that there are more people taking part in football betting because more people are now placing bets on football through legitimate channels. In the past they did not take part in football betting probably because they did not want to place bets with illegal bookmakers. But I agree that after the legalization of football betting, more people have really taken part in football betting. However, Mr Frederick FUNG has failed to provide us with figures. I hope he can go back and ask the ADPL to conduct a survey to find out how much the increase in betting turnover has been received by illegal bookmakers. There is no answer to such a question. I do not want to give him the answer either. And I also believe he cannot provide the answer to me.

Besides, there is still another point: Why has football betting become such a craze? We can see that there is extensive coverage of it in the media, radio, television and newspapers. Some shopping malls are open even on a round-the-clock basis. I learned from the newspapers that over 100 000 people had flocked to shopping malls to watch the broadcast of football matches overnight. They can be admitted to the special viewing zone to watch the games if they had spent over \$100 in the mall. This is the general atmosphere in society. Chairman, gambling is promoted in this way, instead of being promoted by the HKJC through the legalization of football betting. Of course, the HKJC is ultimately the responsible party for bringing about the legalization of football betting. I agree that this is evil. I, for one, hope that gambling can be banned altogether.

What Mr Andrew CHENG has said just now in his speech is no different from what I have said. Mr Andrew CHENG and I are in fact brothers at arms, but he has compromised. He compromised because he felt a sense of helplessness which he had eventually resigned to it. In fact, there should not be any resignation. He should act like what Mr Frederick FUNG has done. Why should he move an amendment? He should oppose it completely. He should absolutely oppose it to the end. Therefore, I support this all the way through. We must adopt a common stance and we must be consistent. The issue at stake is: When we cannot combat illegal bookmaking activities, should we tolerate their existence simply because we cannot crack down on or wipe out such illegal gambling activities? Now the HKJC is willing to do something extra and the Government is willing to co-operate with the HKJC in implementing some measures to combat illegal bookmaking, such actions are in fact, pardon the expression, charitable deeds. Even if the HKJC wins, it is mindful of doing some work for charitable causes, and it has to pay tax. The HKJC has to pay three taxes — gambling duty, profits tax and donations to charitable causes. Anyway, it must be far better than triad societies. Guess what a triad society would do after reaping profits? Chairman, they will keep operating illegal businesses like vice establishments, smuggling cigarettes and other goods and prostitution businesses, and so on. Why do I hold such a strong opposition to illegal bookmaking activities? It is simple, because I am opposed to crimes, and because I had once been a victim of crime — that is why on the issue of "eavesdropping", I had once said that I would have doubts about such provisions if they weaken the police's ability in cracking crimes; but I might not support them because I think we should wipe out triad societies by all means. If we can

implement measures one step further from the existing measures, then let us do it. There can be no compromises. We must cut off their sources of income. We should do work in this direction by all means, instead of convicing at their activities. Therefore, if we listen to the words of Mr Frederick FUNG, we shall never be able to impose a total ban on illegal bookmaking. But now people suggest that we should not allow the HKJC to do promotion in order to boost its turnover, and in addition, these people even want to see a decline in the HKJC's turnover. However, if the HKJC should see a decline in its turnover, then it will lead to an increase in the betting turnover received by the illegal bookmakers. I really do not know what kind of logic this is.

If I do not know Mr Frederick FUNG personally, after listening to him delivering such an emotional speech, I must come to the conclusion that he does share my strong hatred of gambling. However, if we just listen to part of his speech, he could appear to us as if he is speaking for illegal bookmakers. But of course, this is not the case — I absolutely do not mean that. I have never intended to offend him. I respect him very much because I respect his stance. I think, since Mr Andrew CHENG wishes to compromise today, there is nothing I can do about it since he would not withdraw his own amendment, and of course I cannot convince him. We can only continue with our discussion on this subject out of this Chamber in future. However, I feel that, we may seek to block the passage of the Bill; otherwise, if you want to compromise, then do not put forward those "half-baked" proposals. We should give the HKJC more flexibility to see if this can really combat illegal bookmaking. However, I agree with Mr Frederick FUNG in saying that if we lend our support to this Bill today, the Government should step up its enforcement actions to wipe out triad societies and combat illegal bookmaking while heavier penalties should be imposed on the offenders. This is the proper way of addressing the problem.

I hope Mr Andrew CHENG will not speak anymore; otherwise, I shall have to respond to him again. I do not wish to make any more responses. All I have wanted to do is to clarify my own position. Why do I support the Bill? My support for the Bill does not necessarily mean that I support gambling. My only aspiration is, after the HKJC has been given greater flexibility through this Bill, it can, first, do more charitable work; and secondly, the authorities can really combat illegal bookmaking. If illegal bookmaking cannot be wiped out, can we come back and discuss the issue again? The Legislative Council has a

role to play in monitoring the Government. We can review the relevant legislation. Thank you, Chairman.

MR ANDREW CHENG (in Cantonese): I would like to give a brief response. I think this debate is useful. However, with regard to what Mr Albert CHENG has said, I would like to first clarify that we are not compromising, but upholding — upholding our principle, that is, there must be a definition for high-value bets. If Honourable colleagues think that this should not be rigidly stipulated, then it should not be stipulated even in the Code of Practice. However, the Government says that this should not be stipulated in the legislation, but it can be stipulated in the Code of Practice. Is this not self-defeating? Why should it be stipulated in the Code of Practice?

If one suggests that the HKJC should be given flexibility, why do we not grant the HKJC absolute flexibility? That is, the HKJC is allowed to define high-value bets as different amounts on each day, each week or even each race meeting; and the HKJC can decide employing whatever tactics it feels like, depending on what kinds of tactics are used by illegal bookmakers. Will we not be granting even greater flexibility to the HKJC if we act in this manner? But the point is, we should not act in such a way. If there are colleagues who think, in the same way as Mr Tommy CHEUNG does, that such a stipulation should be allowed and approved of in the Code of Practice, that means you think that there should be a certain standard for the HKJC to follow in this regard.

I would also like to point out that this is not a "half-baked" amendment. I also hope that everyone can understand that, as illustrated by the circumstances now, the legalization of football betting has failed absolutely — it is a measure that cannot combat illegal bookmaking. How can you still use it as your justification? Of course, Mr CHENG does understand this. But perhaps he thinks that the HKJC should be given one more chance. Yet, our convictions are different. I think that it is wrong to give it a second chance. This is a wrong approach. Why? Because many scholars have conducted studies on this. Their finding is, after people have taken part in authorized gambling, even if 10% rebates are provided in bets of over \$10,000, they will eventually find that, "This is not exciting enough". On the other hand, after seeing what the HKJC has done, the illegal bookmakers will adopt some other methods to attract people to place bets with them. Eventually, the gambling population will expand, and some of the new gamblers may even switch to placing bets with

illegal bookmakers. In that eventuality, how can we combat illegal gambling? This is the point where I differ most substantially from Mr Albert CHENG, other Members supporting the Government and the Government in terms of our basic convictions.

Madam Chairman, I do not wish to repeat the points anymore. Of course, I think it is good for Honourable colleagues to go on debating. But I wish to be as concise as possible. So I shall stop here.

Thank you, Madam Chairman.

MR ALBERT CHENG (in Cantonese): Chairman, since Mr Andrew CHENG said that he would not speak anymore, I believe I shall not have to speak again after making this remark.

I feel that what Mr Andrew CHENG has said is a rather negative approach. Should we refrain from issuing even a guideline just because Mr Andrew CHENG's amendment cannot be passed? I have reservations about this.

Besides, I cannot see why we cannot combat illegal bookmaking after football betting has been legalized. I really cannot see any data in support of such an allegation. If I can see such data, I would definitely oppose this amendment. But I really cannot see any such data. I also absolutely believe that the acceptance of bets on football betting by the HKJC will definitely affect the income of illegal bookmakers. I can say this with absolute certainty. I think there is no need to argue about this.

I just wish to clarify one point, that is, I find it wrong if Mr Andrew CHENG thinks that the HKJC or the Government should not draft any guidelines once his amendment is negated today. On the contrary, under such circumstances, the Government should make an even greater effort in issuing the relevant guidelines.

I so submit.

MR FREDERICK FUNG (in Cantonese): Chairman, I have to refute what Mr Albert CHENG has said because his earlier accusation of me has completely

distorted my original intention. On the contrary, I suspect that he has not been acting sincerely as he has cast and will cast all the way supporting votes while claiming himself to be against gambling. Earlier on, he said he agreed with Mr Frederick FUNG's demand that the police should arrest illegal bookmakers, but soon afterwards he said what Mr Frederick FUNG had said and his objection to such amendments were in fact unfairly helping the illegal bookmakers. With regard to what he has said, actually am I helping the illegal bookmakers or am I combating them? I really have no clue to the answer.

But, the most important point is, first of all, when we discuss the issue of gambling, as our major direction, we must know what we are targeting our actions at. Secondly, if we are not discussing the major direction, but only the secondary direction, which is to combat illegal bookmaking, and that the authorities' only intention is just proposing betting rebates in putting forward this Bill, and that in doing so, the purpose of combating illegal bookmaking can be achieved, I really do not believe in the truth of such a claim.

If the police are made to arrest the illegal bookmakers, and then boosting the strength of the police is the ultimate solution to combating illegal bookmaking, then I think the authorities should submit the complete package of proposals, and that they should also state clearly whether additional relevant funding has been allocated in the Budget specifically for combating illegal bookmaking and whether heavier penalties or prison terms would be imposed on illegal bookmakers when they are arrested. But, while all the answers to these questions are in the negative, the authorities tell me that this is the way to combat illegal bookmaking, it really cannot make me believe in such a claim.

This is the most important point of the entire speech delivered by me earlier on. In other words, if it is the objective of the authorities to combat illegal bookmaking, they should submit the whole package of proposals to us. If the objective is to avoid encouraging gambling, and if it is intended to contain gambling within a certain scope, then illegal bookmakers are not the only party who is wrong. So is the HKJC. If this is wrong, then the HKJC is wrong too, is it not? The authorities must state clearly what they want to convey to us. I think that, regardless of whether the Government is talking about the issue of gambling, it has not told me what its major direction is, what its objectives are and what kind of values it holds. If it is intended for combating illegal bookmaking, but only the arrangement of betting rebates is mentioned, how can

the authorities convince me as well as the people of Hong Kong that they are determined to combat illegal bookmaking?

Therefore, I have to make this appeal again: If we really think that this measure cannot combat illegal bookmaking, but may even encourage gambling, and cannot curb the increasingly serious and rampant gambling trend, then we must indicate our stance. The findings of a study conducted by the *Ming Pao Daily* have shown clearly that one sixth of the respondents had gambled for the first time — it was the first time that they had gambled. Regardless of whether they had placed the bets with illegal bookmakers, the legalization of football betting has actually encouraged gambling. Therefore, if we want to convey a very clear message to the Government, to say that we do not approve of such a direction, then I urge Members to cast all the way opposing votes, opposing it to the end — opposing it at the Second Reading, Third Reading and all the amendments. Thank you, Chairman.

MR TOMMY CHEUNG (in Cantonese): Chairman, I also wish to respond to Mr Andrew CHENG's remarks. He said if one did not support the inclusion of the level of high-value bets in the legislation, then why should he support its inclusion in the Code of Practice? He found this seemingly contradictory. I wish to explain this. In fact, I already explained this very clearly in my earlier speech. If this is stipulated in the legislation, it will become very inflexible. We can see that we have to spend over an hour discussing an amendment. If it is stipulated in the legislation, all the flexibility will be lost.

However, I also respect his view, that is, on the so-called high-value bets. We cannot accept that even \$10 is considered a high-value bet; otherwise all the bets would become high-value bets. I support and respect his view, and I also understand that the HKJC has no intention of providing such rebates. Let us consider this: How can this be possible? If 10% has to be returned on the receipt of every \$10, does the HKJC not have to take its overheads into consideration? So, this is absolutely impossible. Therefore, we propose that perhaps it can be stipulated in the Code of Practice. It does not mean that the level will be changed every day. It can be changed, if necessary. And the Secretary will be responsible for monitoring the situation in this regard. For example, if the illegal bookmakers see that the HKJC has set the level of high-value bets at \$100,000 and this has proved feasible, then bookmakers may

change it to \$20,000. If the HKJC fails to achieve the desired result by setting the level at \$10,000, then it may have to think of some other solutions, and then changes can be made to the Code of Practice. This arrangement can preserve the flexibility. To me, it can even assure transparency.

This is the point over which I differ from Mr Andrew CHENG. I do not believe that contradiction will emerge if someone does not support the inclusion of the level in the legislation but supports its inclusion in the Code of Practice. I hope he will understand that I respect his view on this, but I think that it would be too rigid if it is stipulated in the legislation, and it would not help to materialize the spirit of the entire legislation, that is, assisting the HKJC in combating illegal gambling. Of course, Mr Frederick FUNG thinks that, whatever measures adopted, illegal gambling cannot be tackled. I also respect him in holding such a view, but I cannot possibly agree to it.

Thank you, Chairman.

MR ALBERT CHENG (in Cantonese): Chairman, apart from making an elucidation, I do not wish to speak any further. I have to elucidate because Mr Frederick FUNG is really very agitated. I had already said in my speech that I did not mean to offend him and that I had no objection to his holding such views, only that if other people listen to his remarks, there could be a great likelihood that they would be misunderstood. In fact, I was just making elucidations for him. Certainly, it does not matter if he does not accept my good intentions. However, the most important point is that, as Mr Andrew CHENG has said, Mr Frederick FUNG did not join the Bills Committee on Betting Duty (Amendment) Bill 2006 but I think he should have because, as Mr Andrew CHENG said, his contribution would certainly be tremendous.

Secondly, if he requests that the budget be increased so that prosecution by the police can be stepped up or penalties be increased, I believe we could have moved an amendment in this regard, or at least we could have given it a try, albeit its passage is another matter. He did not do so and I found this a pity, however, I am not condemning him and I do not want him to rise later to lambaste me again. I only find this a pity. If Mr Frederick FUNG is really so concerned about the problem of gambling, he should have joined the relevant

Bills Committee to express his views. In that event, the debate could have been more fantastic today.

I so submit. Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for Home Affairs, I trust you also find it not necessary to speak again?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Correct.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Andrew CHENG 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 Andrew CHENG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Andrew CHENG 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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr Patrick LAU voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Ronny TONG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Mr LI Kwok-ying, Mr CHEUNG Hok-ming and Mr Albert CHENG 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, 26 were present, seven were in favour of the amendment and 19 against it; while among the Members returned by geographical constituencies

through direct elections, 24 were present, 11 were in favour of the amendment and 12 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.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Chairman, I move the amendment to clause 15 by deleting, in the proposed section 6GB(4)(d), everything after "television or" and substituting "radio — (i) between the hours of 9:30 am and 10:30 pm on any Saturday or Sunday; or (ii) between the hours of 4:30 pm and 10:30 pm on any other day;".

In brief, the Administration proposes to revise the prohibited hours for advertising the conduct of betting on horse races on television or radio by extending the hours to between 9.30 am and 10.30 pm on Saturdays and Sundays. The amendment is proposed because children and youngsters tend to spend more time watching television on Saturdays and Sundays. I hope that this amendment can reduce the impact that publicity of horse race betting programmes may have on children and youngsters.

I also propose a technical amendment to clause 15 by deleting everything after "races on television or" in the proposed section 6GB(6) and substituting "radio between the hours specified in that provision if that company — (a) broadcasts, between those hours, on television or radio any forecast, hint, odds or tip relating to guessing or foretelling the result of, or contingency relating to, any horse race on which authorized betting may be conducted; or (b) authorizes such forecast, hint, odds or tip to be broadcast, between those hours, on television or radio."

The other five proposed amendments to clause 15 include, firstly, in the proposed section 6GF(1), deleting "+ (L+M-N)", and deleting everything after "become payable by the conductor" and substituting a full stop, and deleting the proposed section 6GF(3). These amendments serve to amend the formula for calculating the net stake receipts such that unclaimed dividends and rebates will be excluded from the formula. On the other hand, the HKJC has made an undertaking of donating all unclaimed dividends and rebates to the HKJC Charities Trust for charity purposes.

Secondly, in respect of the proposed section 6GO(1)(b) under clause 15 of the Bill, we propose to delete "6GN(7)(b)" and substitute "6GN(8)(b)".

Thirdly, in respect of the proposed section 6GP(2) under clause 15 of the Bill, we propose to delete "all" and substitute "each of".

Thank you, Chairman.

Proposed amendment

Clause 15 (see Annex I)

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

MR TOMMY CHEUNG (in Cantonese): Chairman, I speak in support of the Government's amendment, in particular, new section 6GF on donating all unclaimed dividends and rebates to a charitable trust.

My thanks go to the Financial Secretary for, after I had put forward my proposal, the Financial Secretary made a speedy response by proposing this amendment taking into consideration the fact that the duty revenue will decrease substantially as a result. I also wish to thank the Financial Secretary and the Secretary for making the amendments in this regard.

Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, Secretary for Home Affairs, you do need 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 propose 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 Andrew CHENG and Dr Fernando CHEUNG have separately given notice to move amendments to subsections (4)(f), (4)(g) and (7) of the proposed section 6GB in clause 15.

Committee now proceeds to a joint debate. In accordance with the Rules of Procedure, I will first call upon Mr Andrew CHENG to move his amendment.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I move the amendments to subsections (4)(f), (4)(g) and (7) of the proposed section 6GB in clause 15.

Madam Chairman, I wish to take this juncture when Mr Albert CHENG is still in the Chamber and has not yet gone out for his meal to respond to one of the points in his speech. Just now, since I did not want to waste Members' time, I did not rise to speak again but what I wanted to say was more or less the same. First, I want to respond to one of the points in his speech, that is, he said that there was no information that could prove or show that the Government and the HKJC had failed to combat illegal gambling effectively after the authorization of football betting, that is, he has great confidence in the Government and the HKJC in clamping down on illegal gambling. A lot of people also say so, thinking that with the formal system of football betting put in place by the HKJC, illegal

bookmaking will definitely run low and Mr CHENG also said that there was no information convincing him that the Government had failed to clamp down on illegal gambling effectively. However, in the Second Reading debate, I provided some information from the police on the amounts of money involved in illegal football betting seized by the police, so let me to read it out once again: in 2001, the amount was \$20 million and in 2002, \$57 million. The authorization of football betting had not been implemented at that time. With the authorization of football betting in 2003, the amount dropped slightly from \$57 million to \$36 million and in 2004, it was \$21 million, so the amount had been decreasing. However, from 2005, there was an upswing again and the amount was \$28 million.

In addition, we often say that the figures relating to illegal football betting and bookmaking have always been very high and no sooner had they been dealt a blow than they sprang back to life again. Therefore, I hope I can convince Mr Albert CHENG here that I can never believe the policy of countering illegal gambling with gambling credible. When things reach a certain critical point, it will be necessary to keep striking, to keep hitting illegal bookmaking activities hard.

The amendments moved by me in speaking just now have to do with one of the mandatory licensing conditions laid down by the Government, that is, the HKJC is required to display messages warning of the adverse consequences of excessive gambling in its betting branches and websites that accept bets.

We believe that the relevant measure is not adequate in making the public understand the adverse consequences of excessive gambling. In order to make the public fully understand the harms of gambling, I propose that the HKJC has to display messages warning of the harms of excessive gambling in all forms of horse-racing advertising and promotional activities, including the electronic media. Therefore, a new section 6GB(4)(g)(iii) is added to require the HKJC to conspicuously display and keep displayed or carry notices that comply with section 6GB(7) in conducting any advertising or promotional activity. What is this notice about? According to section 6GB(7), there are two types of notices. One contains a warning on the adverse consequences of excessive gambling and the other provides information on the services and facilities available in Hong Kong to problem and pathological gamblers. In my amendment, I seek to include these two types of information in all relevant advertising and promotional

activities. However, the Government thinks that it is very difficult to do so, as Miss CHOY So-yuk said just now, asking what is meant by advertising and by promotional activities, saying that the meaning could be extended indefinitely and the proposal was impracticable, that if it was implemented, in future, it might be necessary to print these warnings on giveaway towels or cups.

However, unlike Mr Frederick FUNG, Miss CHOY So-yuk is a member of the Bills Committee. I cannot remember if she was present when the relevant provisions were discussed, however, at least, please take a look at the present Bill first.

Madam Chairman, the present Blue Bill contains the Government's draft. The Government specifies in section 6GB(4)(e) that one shall not, in conducting any advertising or promotional activity — (i) target juveniles; (ii) exaggerate the likelihood of winning; or (iii) expressly or impliedly suggest that betting on horse races is a source of income or a viable way to overcome financial difficulties. In other words, the Government already has an idea about what amounts to advertising or promotional activities because this has already been set out in the Bill. I am only seeking to cover advertising and promotional activities on horse-race betting and the electronic media in the areas in which warnings against excessive gambling have to be displayed in accordance with the Bill.

Therefore, if the reason for opposing my amendment is that it is not possible to define what amounts to advertising and promotional activities, then I am utterly puzzled. Those who oppose my amendment should oppose the entire Bill because they do not know what advertising or promotional activities mean at all. Honourable colleagues from the DAB are also in the Chamber now and Mr Jasper TSANG has not yet spoken on this issue. Although he is not a member of the Bills Committee, I really want to know the stance of the DAB in this regard because this stance matters a great deal. We hope that this amendment can be made to the law because we want to make the messages warning of the harms of gambling more varied and put this message across to the public more clearly. Members must not cite some perplexing and unreasonable justifications, asking what advertising and promotional activities mean and saying that their meaning can be extended indefinitely, that in future, this requirement will be applied to giveaway towels and mugs, and then go on to ask what are people are supposed to do in that event. Saying that the implementation will be difficult, so they oppose my amendment. This is a great shame.

Therefore, I also hope that Honourable colleagues can take note of one point and I will read out the relevant promotion script even though I may appear repetitive. The contents that I am going to read out this time have not been read out before. They are about some promotional tools. The last line that I read out from this script of 15 June for the World Cup Finals is "Quality service provided by you that you can be proud of". We found the words in this script not quite all right, so we informed the Bureau, which contacted the HKJC immediately and as the Secretary said just now, all levels in the HKJC were shaken and are examining how to prepare a report for the Secretary. Madam Chairman, in this information and services script for 23 June (even the name had been changed by then), there is another line, "The HKJC provides betting services in a socially responsible way. It also reminds the public that they have to bet according to their ability, so it is trying its best to reduce the negative effects resulting from problem gambling.". This is designed to remind its employees, that is, its front-line employees. There is then the Talk of the Day, which is Switzerland against South Korea.

However, the entire Talk of the Day for the football match between Switzerland and South Korea still targeted those people who had come into the off-course betting branches to bet on football matches but who had not decided on their picks by telling them that the focus of the evening was on the Group G matches in which Switzerland played against South Korea. Members all know that there were three matches that evening, however, this match was the focus. "Switzerland has not conceded a goal in the past two matches, so its defence capability is not weak. The goal difference for South Korea is poorer and it must win to qualify for the next round." The target of this talk is definite, so can this be considered promotion? Do you call this information? If people do not pay any heed to this, the latest information on the World Cup Finals was available over here and you may take a copy for reference. If the people still pay no heed, the employee will then say, "If you need help, you can find me any time." Throughout, is there any talk designed to reduce the impact of problem gambling? I am sure that in putting this down in the script, they expected that I would read it out here today. In other words, we all know about this and employees also have to understand this point. However, has such a message ever been relayed in the entire script?

However, I also understand that, as Mr Albert CHENG believes, people who enter off-course betting branches all intend to place bets on football matches,

so are the employees supposed to drive away the customers? Are they supposed to say to customers that football betting is no good and one has to bet according to one's ability and should not be too indulgent? If they do so, they will only be lambasted. Of course, I understand this. However, at least, this sort of information called the Talk of the Day cannot convince us how the message on the harms of gambling as mentioned in the Government's Blue Bill can be conveyed by some so-called Code of Practice? Since broadcasting such messages in off-course betting branches is disallowed, it is necessary to let the public see these messages when watching television advertisements, listening to advertisements on the radio or turning the pages of newspapers. On this sort of scripts, nothing else is said except one-and-a-half Handicap-goal, a half Handicap-goal, scores, skills, ball control, formation, and so on. It is necessary to do something in this area to make members of the public go into off-course betting branches less often.

Therefore, I hope that Honourable colleagues, including those who have said they would not support my amendment in their speeches, can understand that to include such messages on the harms of gambling in advertising and promotional activities have only merits and no demerits. I hope Members can uphold this conviction. For the sake of our next generation, or even for the sake of preventing adults from indulging in gambling, more should be done to make society more balanced, rather than merely catering to the interests of the HKJC. I hope other Members will support my amendment.

I so submit, Madam Chairman.

Proposed amendment

Clause 15 (see Annex I)

CHAIRMAN (in Cantonese): I now call upon Dr Fernando CHEUNG to speak on the amendment moved by Mr Andrew CHENG as well as his own proposed amendment. However, no amendment may be moved by Dr Fernando CHEUNG at this stage. If Mr Andrew CHENG's amendment is passed, Dr Fernando CHEUNG may move his revised amendment to paragraph (g) of the proposed section 6GB(4) in clause 15. You can now speak first.

DR FERNANDO CHEUNG (in Cantonese): Chairman, I rise to speak in support of Mr Andrew CHENG's amendment, which requires the HKJC or the betting conductor concerned to display warnings on the harms of excessive gambling when conducting such activities and promoting and publicizing certain types of information. Frankly speaking, this is a very mild amendment. At present, we already require the display of warnings for some activities or foods that are known to be harmful to our health, life, family relationship, and so on. In foreign countries, the labelling of many food items is very common. Labelling is meant to give the customer or the consumer as much clear information as possible, so that he can realize what kind of goods he is buying, what kind of activities he is engaged in and what undesirable consequences will result from his acts. He will therefore engage in an activity or act in a certain way in a fully informed manner. The consumer can then make his own choice.

As legislators, we think that this amendment can provide those who intend to participate in betting with an opportunity to fully exercise their right to know. Honestly speaking, the Betting Duty Ordinance and the various forms of regulation are lagging far behind the forms of regulation or legal requirements found in other advanced countries. In foreign countries, people are already talking about responsible gambling. Admittedly, it may be difficult for us to distinguish gambling from responsible gambling. But foreign countries have indeed developed a set of relevant laws and policies. Such laws and policies do not only involve warnings but also require that on some public occasions clearly related to gambling, notices must be displayed to remind people of the symptoms or signs of problem gambling. For example, does a person have an ever increasing urge to raise his stakes? Is he gambling away more and more money? Does he need to borrow money for gambling? All these are clearly displayed. After reading such notices, a person may realize that he has exactly these symptoms, which means that he may have become a problem gambler. He will thus caution himself.

Moreover, there are other straightforward measures. In some cases, when a person realizes that he has become a pathological gambler and cannot extricate himself from such an abyss, he may sign a document in accordance with the rules, so that he can detach himself from gambling. This means that he expresses his willingness to be detached from any gambling facilities. Since he has signed such a document, staff of betting centres — for example, the off-course betting branches of the HKJC — will recognize him and even his car. When the person wants to enter their betting centres, he will be asked to leave

and denied entry altogether. The person does this of his own accord. He knows that he cannot save himself, so he chooses to sign such a document when he can still control himself. Responsible gambling policies and organizations do allow such a practice, so as to reduce the number of pathological gamblers from falling into the abyss.

Actually, many such measures and policies are simply unheard of in Hong Kong, and they will never be implemented here. Under the existing Betting Duty Ordinance, the HKJC can enjoy complete flexibility. Actually, warnings should be displayed in publicity activities, so that consumers or gamblers can at least be reminded of the possible consequences of gambling and advised to exercise caution. They may still continue to gamble, but we will not thus enact any legislation on prohibiting persons aged 18 or above from gambling. This is simply not the issue we want to debate.

Therefore, I think that Mr Andrew CHENG's request is in fact very humble. This is just a minimal demand meant to increase the transparency of information and enhance the right to know, so that people can make their choices in an informed manner. Therefore, I will support Mr Andrew CHENG's amendment.

Thank you, Chairman.

CHAIRMAN (in Cantonese): Dr Fernando CHEUNG, you do not intend to speak on your own amendment

DR FERNANDO CHEUNG (in Cantonese): I am sorry. I do intend to do so. Thank you. I thought I should speak later.

CHAIRMAN (in Cantonese): Since we are holding a joint debate, you may also speak on your own amendment.

DR FERNANDO CHEUNG (in Cantonese): I see. Thank you for reminding me, Chairman. My amendment is actually very similar to that of Mr Andrew

CHENG. My amendment and his are different just because of one reason. When I was holding negotiations with the authorities concerned on this amendment, the Home Affairs Bureau told me that they were most unlikely to support Mr Andrew CHENG's amendment because they found it difficult to define "any activities" or "any advertising or promotional activities". They questioned whether warnings should be displayed for any activities. They could not define "any". Therefore, I said, "Alright, if you really can't define 'any', I can actually make the whole thing clear by restricting the scope to the radio and television. That will be very clear, right?" (I am referring to radio and television programmes about betting activities) The HKJC will not produce any one-minute radio and television publicity programmes unrelated to betting activities. This is very obvious to all. Warnings must be included in any radio and television programme about betting activities. All is so simple. I cannot agree to the Government's claim that the amendment is impracticable. But I am prepared to be even more modest, specifically referring to radio and television programmes. That should be clear enough.

Therefore, I hope Members can support my amendment. Thank you, Chairman.

CHAIRMAN (in Cantonese): Members may now debate the amendment moved by Mr Andrew CHENG as well as Dr Fernando CHEUNG's proposed amendment.

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

MR ALBERT CHENG (in Cantonese): Mr Andrew CHENG mentioned my name just now, but I do not wish to argue endlessly with him. In regard to the authorization of football betting, I of course object to the lack of any measures to combat illegal bookmakers. Most importantly, we must bear in mind the atmosphere in the mass media and society as a whole; even the Chief Executive said in the Legislative Council that he also watched football matches. I do not watch any football matches, never. Therefore, I am not affected. It is a fact that the number of football gamblers has increased. And, more people are betting with illegal bookmakers and the HKJC. The HKJC has no doubt managed to induce some former customers of illegal bookmakers to bet with it.

Mr Frederick FUNG referred to a survey conducted by the *Ming Pao Daily*, claiming that the number of football gamblers has increased by one sixth. However, there are no statistics to show that this one sixth of gamblers will not patronize illegal bookmakers when there is no legal football betting. There are no such statistics, Mr Andrew CHENG. There are no such statistics. I must first clarify this point. However, I do support the remarks of Mr Andrew CHENG and Dr Fernando CHEUNG on their respective amendments because I oppose gambling.

I think that in this Bill, we have already given the HKJC huge flexibility to combat illegal bookmakers. I do not think that the mere inclusion of warnings is enough for the purpose. Dr Fernando CHEUNG's amendment is really very modest. Inside the HKJC, employees should not ask people not to gamble, should not say that they may gamble away all their chattels, that their wives may be starved to death as a result, and that they may thus have to commit suicide. Anyone who says so will certainly be beaten up and cursed. Gamblers will simply say "damn" in response. They will find all such publicity highly irritating. They will be displeased even when someone taps them on the shoulder. However, it is of course alright to display conspicuous warnings inside the HKJC's off-course betting branches. I did not listen to Miss CHOY So-yuk's speech. But Mr Andrew CHENG quoted her as asking, "Is it also necessary to print warnings on towels and cups offered as gifts?" It is necessary to do so and tobacco companies are doing exactly this. The anti-smoking campaign is a good example. All activities organized by tobacco companies and the gifts offered by them must display such warnings. That being the case, why is it impossible to impose the same on horse betting?

Fear is probably one of the factors causing the Government to say that it is difficult to implement the proposal. We may look at the HKJC as an example. I listen to the radio every day and find that while asking people to bet on horse races and football matches, it has also organized a "world-class" campaign to assist the elderly. It claims that this is a world-class event, but I do not know what it means by "world-class". It is of course not quite so appropriate for it to display the warning "gambling ruins one's life" in what it claims to be a world-class event to assist the elderly. However, this problem can certainly be solved somehow as long as the authorities have the determination. We have given flexibility to the HKJC, and it must at least discharge the moral obligation of reminding people not to gamble, advising them that gambling will ruin one's life.

Let me now return to Mr Andrew CHENG's remarks just now. A person who has just \$100 may at first plan to spend \$90 on going to the movies or other purposes such as buying food, but it is indeed true that if he is advised to gamble upon entry into the HKJC, he may spend more money on gambling. This is true, but in any case, the person will not gamble away all of his possessions. This is the reason for my support because betting with the HKJC is after all better than patronizing illegal bookmakers.

I think it is necessary to display such warnings. Even though Mr Frederick FUNG may want to be consistent, I must make an appeal to him once again. Regarding the Bill, I totally support the Government and I will also support the amendments of Mr Andrew CHENG and Dr Fernando CHEUNG. I hope that Mr Frederick FUNG can join our ranks.

I so submit. Thank you, Chairman.

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

MR FREDERICK FUNG (in Cantonese): Chairman, this amendment is certainly well-intentioned, in the sense that people are advised to exercise caution or even not to gamble for reasons of the harms of gambling. But Members all know that there will not be enough votes to ensure its passage. Other Members choose to deliver their message to the Government in one way, but I will do so in my own way. I think that by adopting an approach of total opposition to the Government's method of combating illegal bookmakers, I can deliver an even stronger message. I of course know that I may be the only Member who has adopted such an approach, and that "Tai Pan", Mr Andrew CHENG and Dr Fernando CHEUNG have adopted another approach. But it will be fine as long as all of us can speak our minds. We all want to deliver the same message. Only that we are conveying the message in different ways. It does not appear to me that my vote is instrumental to the passage of the amendment. If my vote is really required for its passage, I am prepared to cast a positive vote. Since my vote will not ensure the passage of the amendment, I shall stick to my own approach. I can only say that all is just a matter of different approaches. This is the first point I wish to make in response to the questions asked by "Tai Pan".

Second, I think the current situation or the publicity concerned is really "駭人" (horrible). I do not know how to pronounce the word "駭" with the radical "馬". We may look at the World Cup Finals this year as an example. Every newspaper devotes many pages, instead of just one or two, to the World Cup Finals — I do not know exactly how many. There are all sorts of betting statistics and betting options. In brief, there is an avalanche of such information. Anyone who reads the newspapers will learn of this event. Anyone who listens to the radio will be reminded constantly of this event. Anyone who watches television will see commercials on this event. It is simply impossible to stop all such publicity. This leads us back to the very fundamental question. Should we publicize gambling? Once publicity is permitted, it will go on endlessly every minute of the day, transcending all limits. And, the forms of publicity will become more and more appealing, with the only aim of inducing people to gamble. The carnivals held before the live broadcast of football matches on television and the match photographs in newspapers are all so attractive. The conversations on the radio are also wonderful and even I myself am induced to stay tuned. Gambling is being beautified in this way. What is being proposed is just the insertion of a mere warning at the bottoms of photographs and images. I think that there will be very little effect unless carnivals on the harmful consequences of gambling are held and broadcast together with carnivals on football betting. A mere sign warning people "not to gamble" will be of very questionable effect. There is of course nothing wrong with the underlying principle. I am just worried about the effects.

From the situation today, I can say that this amendment will very unlikely pass. Members may share the same objective. I will cast a negative vote and they will vote for the amendment. But our common aim is to tell the Government that in the course of combating illegal bookmakers, it must not focus only on offering rebates. It must also consider amending the statutory penalties and ways of increasing the police manpower for combating illegal gambling activities. If the Government is worried that increasing the manpower for dealing with gambling may do harm to society, it should tell us. When the Government and the HKJC adopt such an all-penetrating publicity approach on the one hand and tell us that this can combat illegal bookmakers and reduce the numbers of gamblers and pathological gamblers in Hong Kong on the other, they cannot possibly convince us. Therefore, I have to adopt an approach of outright opposition. I hope Members can all side with me.

MR ALAN LEONG (in Cantonese): According to the Government's proposed section 6GB(4), the betting conductor concerned shall display warning notices on excessive gambling on its betting premises and website and provide information on the assistance available to problem gamblers. Dr Fernando CHEUNG's amendment further proposes to extend the scope of warning notices to radio and television horse racing programmes. Mr Andrew has moved a similar amendment which proposes to extend the scope of monitoring to all advertising and promotional activities of the betting conductor concerned.

Under sections 6I and 6X of the existing Betting Duty Ordinary, the betting conductor concerned, that is, the Hong Kong Jockey Club (HKJC), is already required to display warning notices in its off-course betting branches and website. These two sections respectively set out the licensing conditions for the HKJC's conduct of football betting and lottery activities. And, the display of "warning notices" is one of the licensing conditions. The purpose of the Government's proposed section 6GB just adds a similar licensing condition to the regulation of horse betting.

Chairman, I can remember that in 2004, during the motion debate on "anti-gambling", the Secretary for Home Affairs stated in his reply, "The gambling policy of the Government aims to confine gambling to a small number of authorized channels, the underlying rationale being gambling should not be encouraged." And, on the premise of not encouraging gambling, he added, "The Government has incorporated a number of measures to reduce the negative impacts of gambling."

Chairman, all Legislative Council Members do attach very great importance to the Government's commitment to its policy rationale. They are even obligated to ensure that the Government honours its commitment at all times. Therefore, the Government's proposal to amend the Betting Duty Ordinance and perfect the supervisory mechanism for horse betting can actually offer a very good opportunity, whereby we can realize the policy rationale of not encouraging gambling and reducing its negative impacts, so that they will not become appealing but empty slogans.

Most of the Government's proposed measures on reforming the supervisory mechanism for horse betting, including the display of warning notices, are modeled after the provisions on authorizing football betting. The World Cup Finals is just over, so it may be a good time for us to check whether

these provisions can really achieve the aim of reducing the negative impacts of gambling. Chairman, we must note whether warning measures can really produce any real effects on young people, who are more vulnerable to the temptation of gambling. We must also note whether these measures can prevent gambling from becoming rampant among youngsters. We must then make a comparison and find out whether the provisions on football betting can be used also for regulating horse betting. Making a simple comparison and conducting some studies will already enable us to find out the answer.

My family is a subscriber of the television service provider with the right of broadcasting World Cup Finals matches. One of the channels is devoted to football betting. The setting and atmosphere of the football programmes of this channel are different from those of other football channels. The greatest difference is that while the programme hosts of other channels all focus on players and strategies of football teams, the football betting channel focuses on something else instead — the odds.

Although only persons aged 18 or above are permitted to participate in betting activities under the law, this football channel does not require the input of any viewing codes. This means that all members of the family, young and old, can view the programmes freely. What is more, the display of warning notices is not required in the case of television or radio programmes on betting. Therefore, unless television and radio broadcasters are prepared to exercise self-discipline and display notices to warn youngsters and even adults, youngsters will continue to receive betting information in the total absence of any warning.

Chairman, I have recently talked with some teachers and youth workers, and they have all told me stories similar to the following one. According to my friends, if you ask some youngsters which teams will win tonight, they will tell you which teams they think stand a good chance. But if you ask them for reasons, ask them whether their preferences are based on players' exceptional skills or the wonderful strategies of team managers, they will answer "no" and go on to say, "The odds of this team are worth betting." Chairman, the truth is that to youngsters, the odds offered by the HKJC are even more important than players' skills and team line-ups and they have come to be regarded as a reliable basis of predicting match results. This may be a profile of youngsters' attitude towards gambling nowadays.

Chairman, yesterday, there were press reports on a certain survey. This survey showed that 56% of the respondents aged under 35 had bet on football matches. As for those aged above 35, the rate was 44%, and that of those aged under 18 was also as high as 17%. We must note that in theory, people under 18 are not permitted to participate in legal betting. But the rate was nonetheless close to 20%. This shows that the existing publicity against gambling is not achieving the desired result. Gambling has become a rampant youth problem in our society.

Some may think that it is entirely meaningless to spend so much time on the problems connected with football betting because the focus today should be horse betting. They may also argue that horse racing and football betting are different in nature. In many cases, it may be argued, youngsters themselves are football fans; consequently, as they watch matches, they may unnoticeably fall into the habit of placing bets. But horse racing is basically all about betting and youngsters in general will not be very interested in it, so it is not necessary to require the media to display any special warnings to stop youngsters from gambling.

Is this argument valid? Are youngsters really uninterested in horse racing? According to a survey conducted by The Hong Kong Polytechnic University before the World Cup Finals kicked off this year, 53% of the secondary school students responding to the survey admitted having gambled in the past one year, a rise of 14% when compared with the gambling rate of 39% in the year before last. When asked to choose among the various forms of gambling, 4.1% of the students selected football betting and 12.7% picked horse betting. These statistics can show that horse racing is no less appealing to youngsters than football betting.

What is more, as pointed out by many concern groups on gambling, the HKJC has, over the recent years, consciously stepped up the publicity targeted on youngsters. For example, youngsters and children are permitted to enter racecourses on race days to feel the so-called "horse racing atmosphere". In recent years, the HKJC has also enhanced its co-operation with telecommunication service providers in the provision of free online horse racing information and betting services to mobile phone users. As many Members know, youngsters have the keenest interest in catching up cell phone fads and they are most generous with spending money on cell phones. The series of

publicity and marketing strategies adopted by the HKJC in recent years have definitely produced a great influence among youngsters.

Chairman, I started with the World Cup Finals and have said so much basically because I want to emphasize that simply displaying warning notices in off-course betting branches and the website is utterly impossible to achieve the Government's aim of not encouraging gambling. The crux of the problem is that all the information and publicity on gambling has already formed a tightly-knit "gaming chain". This chain starts with the media information on gambling, followed by the non-betting publicity conducted by the HKJC inside and outside its betting premises and also the further publicity and information dissemination at the time of bets acceptance. Many colleagues have referred to a number of relevant documents. The warning notices under discussion can at best serve as a weak, last-minute reminder. They simply cannot counter the strong influence and impacts generated by other links in the chain.

The respective amendments of Dr Fernando CHEUNG and Mr Andrew CHENG both aim to require the display of warnings and the dissemination of information about problem gambling at the early links of the "gaming chain", so that members of the public, especially youngsters, can receive from the media both positive and negative information about gambling. In this way, we can prevent them from being overwhelmed by the voices of persuasion right at the beginning and help them form the habit of thinking twice before gambling. That way, they will consider their financial ability, their families and also their monthly expenditure. They will thus develop an awareness of spending within their means and become a responsible gambler instead of a problem gambler.

This kind of early education on responsible gambling is especially important to youngsters because they are still in their formative years and their self-control is not yet strong enough. Betting conductors that seek to induce them to place bets are obligated to make good use of the media to constantly remind them of the importance of responsible gambling. It will be too late to tell them to consider the consequences of gambling when they are already driven by a strong urge to stand before a betting counter or log on to the HKJC's website.

Chairman, the HKJC may indeed earn more revenue from betting if there are fewer restrictions and less regulation. And, the social service organizations subsidized by the HKJC may also receive more funding. However, if the

HKJC's mode of operation causes more people to seek assistance from these organizations at the same time, the whole thing will become a great irony.

With these remarks, Chairman, I support the respective amendments proposed by Dr Fernando CHEUNG and Mr Andrew CHENG.

MR TOMMY CHEUNG (in Cantonese): Chairman, Mr Albert CHENG talked about smoking in his speech just now. After examining the two amendments, I notice that their contents are really like the warning "smoking is hazardous to health" printed on cigarette advertisements. Smoking and horse racing are of course two separate matters, and so are smoking and football betting mentioned by Members. In the case of smoking, less consumption may mean less harm, greater consumption may inflict greater harm, and no consumption will bring no harm. The HKJC has also been advocating responsible gambling. Actually, the interpretation of "gambling" will vary from person to person.

I simply cannot imagine how Mr Andrew CHENG's amendment can obtain the endorsement of Members because it is very broad in scope. As for Dr Fernando CHEUNG's amendment, although he described himself as modest, I do not think that this adjective is appropriate. But it does serve to narrow the scope. When it comes to expressions like "conspicuously display", "keep displayed" and "clearly carry statements", I think their inclusion in the legislation can be supported in principle. But such detailed descriptions may lead to difficulties in enforcement and interpretation, and I am worried that they may well give rise to problems. Actually, when we scrutinized the bill on smoking, we faced a similar problem. In the course of scrutiny, many Members thought that since there was no problem with the overall policy, it would not be necessary to study the details. But the Devil is always in the details.

Chairman, I do not intend to speak for a long time. I have studied the two amendments. The Liberal Party is of the view that it will be nice to help pathological gamblers realize their problems and need for assistance and to give them more information. It will also be nice if channels can be established for the Secretary or us to express views to the HKJC (I also hope that the HKJC can conduct more publicity on this, especially on its website or at off-course betting branches and the Jockey Club Building. We should make such efforts. But if

those expressions are displayed in all horse racing publicity or all references to horse racing, I will immediately conjure up images of cigarette packets. One third of the surface of a cigarette packet must display the warning "smoking is hazardous to health". Another one third of the surface may feature a skull. But then, the space left in the middle may just be enough for the picture of a horse without legs and a jockey. The more I think about it, the more I fail to figure out the design.

Anyway, Chairman, the Liberal Party cannot accept the two amendments.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, I now call upon the Secretary for Home Affairs to speak.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, Mr Andrew CHENG moved an amendment to the proposed section 6GB in clause 15, proposing that apart from any premises where the company accepts bets or any website through which the company accepts bets, the HKJC shall conspicuously display and keep displayed notices and statements about the adverse consequences of excessive gambling also in conducting any advertising or promotional activities.

The Administration does not agree with this proposed amendment. I wish to recapitulate here that the Government, like Members, is concerned about the impact of gambling on youngsters. This is precisely the reason why we have particularly included in the reform proposals many measures to protect the youth and the juveniles. These measures include enacting legislation to incorporate into the licensing conditions a mandatory requirement prohibiting the licensee from accepting bets from juveniles, strictly prohibiting the licensee from targeting young people in conducting publicity and promotion of horse race betting, imposing restrictions on the hours for advertising by the licensee on radio and television, and making it mandatory for the company to implement preventive measures to address gambling-related problems. We will issue a

Code of Practice in respect of these restrictions and set out more details in the light of the actual circumstances. The Football Betting and Lotteries Commission can also advise the Secretary for Home Affairs in this respect.

With regard to the proposed amendment requiring the HKJC to conspicuously display and keep displayed notices of the adverse consequences of excessive gambling in conducting any advertising or promotional activities in addition to displaying such notices in any premises where bets are accepted and on any website through which bets are accepted, our view is that it is appropriate to impose such requirements on the betting premises and the website of the licensee, as the warning messages should be clearly visible to customers entering the off-course betting branches and account holders. However, if the requirements were extended to advertising or promotional activities, it would give rise to the question of what advertising and promotional activities are. For instance, should they also cover promotional activities related to major sports or international events, such as the fun day for the able-bodied and people with disabilities? The Administration therefore does not agree that these requirements should be set out in the ordinance. If necessary, we could consider setting further guidelines in the Code of Practice to allow the HKJC sufficient flexibility to make adjustments in the light of changes in the actual circumstances.

As for Dr Fernando's CHEUNG's proposed amendment to clause 15 which requires the HKJC to conspicuously display and keep displayed notices and statements about the adverse consequences of excessive gambling in broadcasting any horse race, as I said earlier, we consider it appropriate to impose such requirements on the betting premises or the website of the licensee, as the warning messages should be clearly visible to customers entering off-course betting branches and account holders. However, the Government does not agree with the approach proposed by the Member. We consider it more effective to carry out direct public education and to publicize the harms of gambling in a positive manner.

On the contrary, displaying such messages in the course of the races will not be very effective. For this reason, the Government does not agree that such requirement be set out in the ordinance. The Government will continue to caution the public about the harms of excessive gambling through public education and extensive publicity, and take appropriate measures to reduce the exposure of the public, especially the youth, to information on gambling. Meanwhile, continuous efforts will be made to implement public education and

preventive measures, and provide counselling and treatment to problem and pathological gamblers as well as other services to mitigate the problem of gambling. The Government will require television and radio stations to increase the frequency of television and radio Announcement of Public Interests against excessive gambling during broadcast of horse races, in order to remind the public of the adverse consequences of excessive gambling.

For these reasons, the Administration opposes these amendments and urges Members to oppose the amendments proposed by the two Members.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Dr Fernando CHEUNG, do you wish to speak again?

(Dr Fernando CHENG shook his head to indicate that he did not wish to speak)

MR ANDREW CHENG (in Cantonese): The Secretary has still failed to answer the question on the interpretation of advertising or promotional activities. The Government is still of the view that it will be difficult to define the expression of "advertising or promotional activities" used in my amendment. But in the Bill introduced by the Government, it is also stated that a licensed company "shall not, in conducting any advertising or promotional activity, expressly or impliedly suggest that betting on horse races is a source of income or a viable way to overcome financial difficulties". I hope that the Secretary can speak again to clarify this point. If the Secretary can give a reply when I ask the Government the same question, that is, when I ask the Government what it means by advertising or promotional activities in its Bill, I shall follow its principle in my amendment, so as to deliver the messages on the adverse consequences of gambling and pathological gamblers.

Therefore, by opposing my amendment, the Government is actually contradicting itself. The expressions I use and the principle I follow are just those of the Government itself. Everyone thinks that the Government needs to include stern warnings in the Bill, so as to advise the public against excessive gambling. At present, such warnings are displayed at off-course betting branches and the betting website. The only thing is that we do not think that

this is enough. As a result, Dr Fernando CHEUNG has sought the second best, requesting the display of these warnings in radio and television commercials. And, I have also suggested the inclusion of such warnings in the advertising and promotional activities mentioned by the Government.

I therefore hope that the Secretary can answer my question, and I am sure he will be able to answer it. If he cannot, I ask him not to support his Blue Bill. If he supports his Blue Bill, I will follow his principle and seek the inclusion of such warnings in the activities he refers to. I will do so unless he tells me there is no such a need, but he has confirmed that there is such a need, only that it is very hard to define advertising and promotional activities. Likewise, I do not find Mr Tommy CHEUNG's explanation and viewpoints reasonable. Mr Frederick FUNG is not in the Chamber now, but I hope that when he votes later on I am not saying that without his vote of support, the passage of the question will be questionable. I hope that Legislative Council Members can uphold their principles and convictions when voting. He must not think that without his vote of support, the question will not pass. Or, he must not decide how to vote only after the passage of the question become a certainty. It will be a bit dangerous for him to think so.

Madam Chairman, outside the Chamber, there are many high-salaried government officials. They have been standing there since 2 pm or 3 pm. Even outside the toilets, there are government officials. The only reason is that they want to make sure that they can muster enough votes. They dare not stay long even when going to the toilet.

Our principle is that Members all have their own reasons for support or opposition. Even if the motion cannot be passed just because there is one vote short, even if the motion cannot be passed, our votes can still tell the Government how many positive and negative votes there are, thus enabling it to know the position of the Legislative Council. I therefore hope that the Secretary can answer my question — Mr Stephen FISHER, who is sitting beside the Secretary, is feeding him information. I hope that he can give me a reply because he should have his own interpretation of the advertising and promotional activities mentioned in the Blue Bill.

Thank you, Madam Chairman.

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 again?

SECRETARY FOR HOME AFFAIRS (in Cantonese): The conditions set out in the Blue Bill mentioned by Mr Andrew CHENG earlier are guidelines relating to the principle and general direction. As for practical enforcement, we will further explain this in the Code of Practice. Thank you, Madam Chairman.

MR ANDREW CHENG (in Cantonese): Chairman, I am extremely dissatisfied. Will the Secretary please do some homework beforehand? The examination of the Bill has reached this stage, but the Secretary is still giving largely meaningless replies.

My question for him is about the expression "in conducting any advertising or promotional activity" used in clause 6GB(4)(e) of the Blue Bill. The use of this expression actually means that when drafting the Bill, the Home Affairs Bureau should have formulated a principle and basis regarding the definition of advertising and promotional activities. I asked him this question because he now objects to my amendment on the ground that it is impossible to define advertising and promotional activities. And, since she must support the Government, Miss CHOY So-yuk has repeatedly asked whether such warnings should be printed on the towels and cups given to members of the public as gifts. Since the ruling coalition of the Government opposes my amendment by quoting the Government's argument, I must of course ask the Secretary to answer this question. But his reply is largely meaningless. He has not explained the underlying principle either. He must tell me what advertising and promotional activities he has in mind instead of saying that details will be listed in the Code of Practice. I have never had any faith in the Code of Practice. He must explain what advertising or promotional activities he is talking about. He must have a definition in mind. If not, he must not ask the ruling coalition to support the Government's Blue Bill.

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 again?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I would like to read out the contents in the Blue Bill on "conducting any advertising or promotional activity". It is expressly stated that such activity shall not (i) target juveniles; (ii) exaggerate the likelihood of winning; or (iii) expressly or impliedly suggest that betting on horse races is a source of income or a viable way to overcome financial difficulties. These are the major direction, principles and objectives mentioned earlier. As to how advertising and promotional activity are defined, we will study into the subject for implementation in the Code of Practice. Thank you, Madam Chairman.

MR ANDREW CHENG (in Cantonese): Chairman, this will be the last time that I speak. I do not want to waste Members' time. However, the Secretary has really failed to tell me what activities he is talking about. He claims that he intends to include the details in the Code of Practice. But why is it impossible to accept the inclusion of my amendment and then seek to define advertising or promotional activities in the Code of Practice? The Secretary can allow himself to define advertising or promotional activities and give his three definitions further elaboration in the Code of Practice, but why does he at the same time reject my amendment, saying that it cannot be included in the Code of Practice because he does not know how to define advertising or promotional activities? This is simply unreasonable, and I hope that he can understand the logic involved. Whether the Secretary will give any reply, I will not speak again and waste Members' time. I hope Members can understand that if the Secretary is so adamant, he will not be very much different from me. I hope he can be honest and say, "I am sorry. Although I do have my views on advertising and promotional activities, I do not agree to the inclusion of any stern warnings." If he can say so, I will not grumble anymore even if I lose. Thank you, Chairman.

CHAIRMAN (in Cantonese): Secretary for Home Affairs, I believe you do not see any need for speaking again, right? Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Before I put to you the question on Mr Andrew CHENG's amendment, I will remind Members that if Mr Andrew CHENG's amendment is agreed, Dr Fernando CHEUNG may move his revised amendment to paragraph (g) of the proposed section 6GB(4) in clause 15.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Andrew CHENG 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 Andrew CHENG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for one minute.

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, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG 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 Frederick FUNG, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

Mr Albert CHAN abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 25 were present, seven were in favour of the amendment and 18 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 13 were in favour of the amendment, nine against it and one abstained. Since the question was not agreed by a

majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): Dr Fernando CHEUNG, you may now move your amendment.

DR FERNANDO CHEUNG (in Cantonese): Chairman, I move my amendment as printed on the Agenda.

Proposed amendment

Clause 15 (see Annex I)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Dr Fernando CHEUNG 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)

Dr Fernando CHEUNG rose to claim a division.

CHAIRMAN (in Cantonese): Dr Fernando CHEUNG 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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Frederick FUNG, 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, 25 were present, seven were in favour of the amendment and 18 against it; 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 negated.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I move an amendment to add subsection (8) to the proposed section 6GB in clause 15.

Madam Chairman, this is my last amendment to the Bill. However, it seems that both sides are getting close. What I mean is that the votes for and against are getting close in number. I naturally hope that the Government's Bill can be amended or even negated at Third Reading.

Madam Chairman, the objective of this amendment is to empower the Legislative Council to monitor the HKJC's horse betting activities and prevent it from lightly launching any new bet types or betting methods that would encourage gambling.

I wish to read aloud one last set of promotional procedures adopted by the HKJC. This is the latest set of procedures because gifts are offered. Madam Chairman, this script, I am telling you, is meant to encourage people to open accounts. This set of procedures is very interesting. The promoter asks, "Mr/Miss, do you have a betting account? If you open a new account, you will get a nice gift." If the customer already has an account, the promoter will say, "You may refer your friends to open accounts with us. Good luck." Then, the promoter will give a leaflet to the customer. If the customer does not have an account, the promoter will continue, "After opening an account, besides being able to place bets 24 hours a day, you can also choose among different betting tools. A Mark Six Lucky Time-glass will also be offered to you." If the customer is not interested, what will the promoter say? He will say, "Do you surf on the Internet? After opening a betting account, you may make use of the HKJC's eWin service to place bets on Mark Six." It does not matter even if the customer is not interested or does not have an Internet account. He can read the leaflet and the promoter will wish him good luck all the same. If the customer is interested, the promoter will say more, "If you did not hold a betting account in the past three months and if you now open one and deposit \$100, you can immediately use the account for betting and get a Mark Six Lucky Time-glass. It will take just a few minutes." Then, the procedure of account opening will follow.

Referring to the set of promotional procedures I have read out, Mr Albert CHENG commented that it would of course be necessary to do some "lobbying" in asking people to open new accounts. But frankly speaking, I must admit that we really look at the matter differently. This explains why we have different interpretations of such promotional messages. Unfortunately, as I have

mentioned, all the targets and directions I am talking about are related to the period from 18 July 2005 to 28 August 2005. At that time, the HKJC required its front-line staff to meet the target of opening 30 000 betting accounts. I must repeat, even at the risk of verbosity, that written inside brackets are these words: Target on people of all age groups. The target of the HKJC was to open 30 000 new betting accounts. Publicity was focused on Mark Six customers, to be conducted mainly on the Draw Dates of Mark Six. The advantages of betting accounts were publicized and gifts offered to persuade customers to open new accounts.

Madam Chairman, I have read out all this information several times. But I am not going to do that anymore. There are actually more information, but they are more or less the same. Why am I worried about these promotional activities? The reason is that years ago, when the Government wanted to implement the authorization of football betting and asserted that the HKJC should not conduct any promotional activities, the Bureau repeatedly assured us that the Code of Practice would prevent the HKJC from conducting publicity. But the only thing the Secretary told us just now was that they have requested the HKJC to submit a report. I am worried because the Government did not realize the situation until we handed to it the thick pile of information we had received from trade union representatives and anonymous members of the public.

If trade unions and the persons concerned had not given us all such information, we would not have realized the situation. We can be excused for not knowing the situation — the Chairman is nodding. I believe she has never been to any off-course betting branches. Am I correct? Many people have never been to any off-course betting branches. Mr Tommy CHEUNG needs not visit off-course betting branches. He goes to Jockey Club Members' Boxes instead. So, how can he know what is going on? In the Bills Committee, he repeatedly argued with me, questioning whether the information was true. He of course does not know the situation, right? Most people betting on Mark Six and horse races at off-course betting branches are "naked to the waist" or dressed very casually. Sitting inside a Jockey Club Members' Box, he will never meet such people, and these people will not tell him what is going on. However, the Government still refuses to conduct any proactive investigations. When we have now handed the information to it, it replies that it will conduct an investigation. This is a black hole or grey area enabling the HKJC to do whatever it likes. This will encourage gambling — I believe it may.

I therefore hope that the Government can understand that it is not the intention of the Legislative Council to subject everything to scrutiny and resolution. Frankly speaking, we in the Legislative Council do not want to handle so many trivialities either. The only problem is that we have no faith in the Government, no faith in the HKJC's publicity gimmicks. I am extremely worried. Therefore, I hope the Government can realize the one and only objective of this amendment: The HKJC must be prohibited from encouraging gambling and the Legislative Council should be empowered to use resolutions as a means of monitoring. Madam Chairman, you have already ruled against my proposal related to football betting on the ground that the issue under debate today is horse racing. But I still hope that we can look at the licensing conditions of football betting in the same way in the future. But speaking of horse racing and the related licensing conditions again, I maintain that instead of allowing the HKJC to do whatever it likes, we should empower the Legislative Council to step in whenever it makes any unreasonable moves or performs unsatisfactorily.

I believe that all the targets and objectives I have read out repeatedly today will surprise Members as much as they surprised me when I first heard of them, and I think Members will find these targets and objectives unacceptable.

Madam Chairman, I so submit.

Proposed amendment

Clause 15 (see Annex I)

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

MR ALBERT CHENG (in Cantonese): I have to make a clarification on what Mr Andrew CHENG said just now. I do not know why he suddenly mentioned me without any reasons. I am opposed to the publicity inside off-course betting branches, that is, all those advice and guidance. He repeatedly said that "Tai Pan" would come in to say a few words. But I must say that even this cannot be tolerated. I must therefore make a solemn declaration. What is more, I support this amendment. I do not understand what he was talking about. He only wanted me to speak. I so submit. Thank you, Chairman.

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

MR JAMES TO (in Cantonese): Chairman, I will just say a few words. Since 1992 or 1993, the HKJC will always come to the Legislative Council for approval whenever it wants to launch any new bet types, such as All Up Place or Place-related bet types, which involve selections in different races. The Government has all the time maintained that the Legislative Council is vested with the power of approval because there is a need to ascertain whether a new bet type will encourage gambling. The publicity activities mentioned by Mr Andrew CHENG just now clearly constitute a serious violation of the Government's claim. It has been arguing that the HKJC should simply play a passive role in enabling interested punters to open betting accounts or place their bets through various channels; it should not engage itself in any proactive and active promotional activities, nor should it seek to make betting an enjoyable process. It is not supposed to employ the usual sales gimmicks, one example being the offer of little gifts, a tactic employed by certain credit card companies to encourage people to open accounts, apply for credit cards, use their credit cards and incur a certain level of credit card spending within a specified period of time.

Following the reasoning of the above, our common sense tells us that the forms of publicity concerned are obviously advertising or promotional activities. Does the Government agree that such activities can promote and encourage gambling? If yes, should the Government not actively collect the relevant information and then try actively to stop and even monitor them, instead of appearing so surprised after being provided with such information? I think this is just a manifestation of its lack of foresight.

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

MR TOMMY CHEUNG (in Cantonese): Chairman, unlike Mr Albert CHENG, I will still speak, whether or not Mr Andrew CHENG has mentioned my name. The reason is that I must speak on behalf of my political party and explain our positions concerning various aspects of the issue.

Mr Andrew CHENG remarked that I might not have met any people "naked to the waist". But how many people "naked to the waist" has he seen placing bets on horse races in off-course betting branches? Actually, people who bet on horse races in off-course betting branches are not necessarily "naked to the waist". Only that I do not like to visit off-course betting branches.

Returning to his remarks just now, I must say that he actually kept talking about two things. He said that since I did not visit any off-course betting branches, I was not aware of the situation described by him. But I visit the HKJC very often. I can see many notices there. Outside the toilets, we can see an especially large notice reminding people of the importance of responsible gambling. He may not notice that the HKJC has made many such efforts in its club houses and betting venues. Of course, its employees may still anonymously The HKJC has made efforts in many areas.

Am I trying to defend the HKJC? I do not work for the HKJC, so I do not have to do so. I agree with him that I am unaware of some things. But it is just because I do not go to any off-course betting branches. Similarly, he is also unaware of the fact that the HKJC has made many efforts — maybe, he is aware of such efforts, but he just will not admit so. Are all these efforts enough? I do not think that they are enough either. Do Members think that the HKJC should adopt such a hard sell approach? As he has rightly asked, should its employees be required to meet the target of opening 30 000 betting accounts? Should the HKJC do so? I do not think that the HKJC must adopt such a hard sell approach because it is a non-profit-making organization. However, all organizations must consider the question of survival. The HKJC has witnessed the drop of its betting turnover from some \$90 billion to just \$60 billion this year. If its betting turnover drops further to \$40 billion two years later, it will have to close down. Is this something Members wish to see?

Mr Andrew CHENG mentioned many issues in his speech and this reminds me of his amendment, which seeks to add a subsection (8) to section 6GB, empowering the Legislative Council to amend the conditions referred to in subsection (4) or (5) by resolution. He kept talking about the offer of gifts to encourage the opening of new accounts. Mr James TO also said that in case any new bet types were to be launched, we must consider which institution, the Legislative Council or the Secretary, should be empowered to make a decision. In this regard, since the licensing institution is now the executive, or precisely,

the Secretary, I fail to see why any proposals on changes or even the offer of gifts to encourage the opening of new accounts should still be put before the Legislative Council. I cannot see how this can bring us any great benefits. What is more, frankly speaking, I do not think that we have the required professional expertise. And, we will thus waste lots of time. Therefore, to put it simply, Chairman, the Liberal Party will not support the amendment. Thank you, Chairman.

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 Andrew CHENG has moved an amendment to the proposed section 6GB in clause 15 of the Bill by adding that the Legislative Council may, by resolution, amend the licensing conditions, including those laid down by the Secretary for Home Affairs. The Administration does not agree to the above proposed amendment. With respect to the proposal that the Legislative Council may amend, by resolution, horse race betting licensing conditions, I wish to reiterate that the reform proposals on horse race betting duty, especially on the agreement to pay a guaranteed amount of \$8 billion by the HKJC, is based on the premise that the Administration is the only licensing authority. The amendment proposed by Mr CHENG will result in a situation where licensing conditions may vary at any time due to a resolution passed by the Legislative Council. This would leave the licensee at a loss as to what it should do and this will change the common understanding which the parties concerned share with respect to the reform proposals, hence it will destroy the basis of reform. Moreover, it will cause uncertainties in the operation of the licensee and add to the operation difficulties.

In addition, I would like to add two more points. First, after the passage of the Bill, the functions of the Betting and Lotteries Commission may be expanded such that it can give advice to the Government in respect of the regulation of horse race betting, including the licensing conditions on a licensee. The Government will listen to the views expressed by the Commission as well as members of the public on horse race operations when licensing matters are considered.

Second, apart from licensing conditions, the Government will keep close watch on the initial effects of the arrangements and facilities of the HKJC and will issue further guidelines in the Code of Practice when necessary and in consultation with the Commission. The reason for the Administration opposing this amendment is the proposed amendment will as a matter of principle destroy the basis of reform and will in effect add a lot of uncertainties to the system overseeing horse race operations. Owing to these reasons of principle, I implore Members to oppose this amendment. Thank you, Madam Chairman.

MR ANDREW CHENG (in Cantonese): Chairman, I wish to say a few words in response to the uncertainties mentioned by the Secretary just now. The HKJC is the only organization that can accept bets in Hong Kong now. If there were more than one HKJC and restrictions were imposed on only one of them, then, honestly speaking, the one subject to restrictions would be plunged into difficulties. But what we are doing is just to set down the principle for the concept and codify it. As rightly pointed out by Mr Tommy CHEUNG, the HKJC's betting turnover has dropped from \$90 billion to \$60 billion and may further drop to \$40 billion. However, he has not mentioned that the turnover of football betting may well have risen continuously from \$10 billion to \$20 billion or even \$30 billion. Therefore, the total betting turnover handled by the HKJC may increase instead of declining. This is the case with the HKJC and also with illegal bookmakers. There have been incessant increases in betting turnovers in both cases. Therefore, gambling, both legal and illegal, simply goes on and on, thus leading to the continuous increase in the gambling population. We have been discussing this since 2 pm or 3 pm, in the hope that the Government will act as the gatekeeper. The Government must not join hands with the HKJC because, coupled with the illegal bookmakers, gambling will become rampant throughout society. The Government will become an accomplice. It is simply wrong for the Government to do so. Seeing that the Government has adopted such an approach, the Legislative Council has no alternative but to seek the power of amending the licensing conditions by resolution.

Contrary to what Mr Tommy CHEUNG said, I did not say that people visiting off-course betting branches were all "naked to the waist". I was only saying that these people and Mr Tommy CHEUNG probably belonged to different social classes. Mr Tommy CHEUNG visits VIP Rooms. Those people "naked to the waist" should have heard of the promotion script I read aloud just now, but Mr Tommy CHEUNG may not have heard of it. According to Mr Tommy CHEUNG, the Legislative Council does not have enough

professional expertise to determine how the licensing conditions for the HKJC should be amended in the future. I cannot agree to such an argument. The 60 Legislative Council Members come from vastly different backgrounds and different professions. We have to deal with more than a thousand ordinances. For the legislation on the MTRCL's listing and railway merger, I believe that with the exception of Dr Raymond HO who enjoys a relative advantage due to his engineering expertise, no Member can possibly claim any understanding of railways. We may not always have the required knowledge. If people say that the Legislative Council should not express any views on such issues due to its lack of professional knowledge, then we may have to stop scrutinizing many Bills. This is precisely the reason for commissioning experts and inviting deputations to give their views when we want to amend any legislation.

What is more, gambling is in fact a very specialized subject. We have dealt with the amendment on offshore betting and also football betting, and I believe that like all of us, Mr Stephen FISHER has all the time been learning in the process. By now, we have all come to understand what gambling is all about. Since gambling is a matter closely related to the present situation of society, we can still express our views on the problems observed by us despite our lack of professional knowledge. In addition, we also understand how Legislative Council Members should deal with all such problems in the public interest.

I hope that this last amendment today can receive Members' support. Please do not say that we are not professional enough and argue that the power in question will plunge the HKJC into uncertainties. What is meant by uncertainties? The legislation will still follow a certain principle even after amendment. The HKJC only needs to adhere to the rule. All is so simple. There will never be any uncertainties.

Chairman, I so submit.

MR FREDERICK FUNG (in Cantonese): Chairman, I also wish to speak on the amendment.

This is the only amendment which I will vote for today. One of the reasons is that instead of having any direct connection with gambling, the amendment concerns only the power of the Legislative Council. Should the

Legislative Council be given the power to determine the licensing conditions for the HKJC? I can observe from the whole process today that the power of the Legislative Council is very limited indeed.

Two Members have questioned why I did not express my views in the Bills Committee. The Bills Committee is certainly one of the forums for voicing views. I have to admit the deficiency of the ADPL because I am its only representative on the Legislative Council. I do not have the capacity to handle too much work, but it does not mean that I have not expressed my views.

Actually, during the process of authorizing football betting in the past two years, I have held numerous discussions with the Secretary. I have also held countless discussions with the then Permanent Secretary and the incumbent Permanent Secretary and Deputy Permanent Secretary. As far as my understanding goes, they can fully grasp my views and those of the ADPL on gambling.

Why did I choose not to join the Bills Committee? It was because I was afraid that after joining the Bills Committee, I would just concentrate on policy issues and stay away from actual legislative amendments due to my inability to deal with too many items of work all at the same time. Therefore, I have to trust that the Government, especially the decision-makers, can fully grasp my views on the gambling policy.

Why do I approve of giving the Legislative Council greater power to monitor gambling? First, to say the least, there are 30 directly elected Members in the Legislative Council. They are the people's representatives. The licensing conditions for the HKJC involve not only technical problems. They also involve the questions of principles, public opinions, value judgements and even religious faiths. That being the case, should Members representing their respective geographical constituencies enjoy greater decision-making power over this issue? Although I have asked this question, my answer to it is in fact "yes".

Second, there are also 30 functional constituency Members, who possess professional knowledge in different fields. They can all reflect the views of their respective professions when handling different issues. There is thus this combination of Members representing geographical constituencies and Members possessing professional expertise. I therefore fail to understand why the views

of all these Members have come to be regarded as unnecessary, and why anyone should say that they should not enjoy any decision-making power. The licensing conditions for the HKJC are admittedly technical, but they cannot possibly be more technical than aircraft engineering — the correct wing aspect must be ascertained before the aircraft can fly upward, downward and horizontally. We do not need to possess such highly technical knowledge to determine whether a licence should be issued. If I had joined the Bills Committee, I might have proposed many conditions. But some Members may think that there should not be too many restrictions lest the HKJC may find operation impossible. However, I believe that if the Legislative Council is vested with the power of amending the licensing conditions, the HKJC and the government officials concerned will at least pay more heed to our views and messages.

I think that this amendment is not only about horse betting and illegal horse betting but also about the power of the Legislative Council. I personally do not regard this amendment of Mr CHENG as related to gambling. I will therefore support it. Thank you, Chairman.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Andrew CHENG 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 Andrew CHENG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Andrew CHENG 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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the amendment.

Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr Patrick LAU voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG 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, 25 were present, seven were in favour of the amendment and 18 against it; while among the Members returned by geographical constituencies through direct elections, 22 were present, 14 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): Since the Committee has earlier on passed the amendments to clause 15 moved by the Secretary for Home Affairs, the question before you now is: That clause 15 as amended stand part of the Bill.

CHAIRMAN (in Cantonese): 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)

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): 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)

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.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the

Betting Duty (Amendment) Bill 2006

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Betting Duty (Amendment) Bill 2006 be read the Third time and do pass.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Dr Raymond HO, Mrs Selina CHOW, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Ms Emily LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Albert CHAN, Mr Vincent FANG, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Patrick LAU and Mr Albert CHENG voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Ms Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr YEUNG Sum, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Alan LEONG, Dr Fernando CHEUNG, Mr Ronny TONG, Mr KWONG Chi-kin and Miss TAM Heung-man voted against the motion.

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

THE PRESIDENT announced that there were 51 Members present, 30 were in favour of the motion and 20 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Betting Duty (Amendment) Bill 2006.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Financial Report Council Bill.

FINANCIAL REPORTING COUNCIL BILL**Resumption of debate on Second Reading which was moved on 29 June 2005**

PRESIDENT (in Cantonese): Miss TAM Heung-man, Chairman of the Bills Committee on the above Bill will address this Council on the Report of the Bills Committee.

MISS TAM HEUNG-MAN: Madam President, in my capacity as the Chairman of the Bills Committee on Financial Reporting Council Bill (the Bills Committee), I now address the Council on the major issues deliberated by the Bills Committee.

The Financial Reporting Council Bill (the Bill) seeks to provide for the establishment of a statutory Financial Reporting Council (FRC) to enhance the regulation of auditors and the quality of financial reporting of listed entities. The FRC's two principal functions will be performed by the Audit Investigation Board (AIB) established under the FRC and the Financial Reporting Review Committee(s) (FRRC) appointed by the FRC. The AIB will investigate relevant irregularities committed by auditors and reporting accountants of listed entities, while the FRRC will enquire into relevant non-compliances of listed entities' financial reports with legal, accounting or regulatory requirements.

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

Given that the Bill is a new piece of legislation which is expected to have a significant bearing on enhancing Hong Kong's corporate governance regime and investor confidence, the Bills Committee has examined the Bill in detail to ensure that the new statutory body will achieve its intended purposes. The Bills Committee has also invited the public and the concerned parties to give views on

the Bill. Details of the deliberations of the Bills Committee are set out in its Report. I shall focus my address on the major issues.

On the composition of the FRC, it is proposed under the Bill that the FRC comprises not more than 11 members, including four to six lay members. Given that members of the FRC will be appointed by the Chief Executive and that the members' qualification requirements are not set out in the Bill, the Bills Committee considers it essential for the Administration to ensure that membership of the FRC will include a wide and balanced composition and that its members will have relevant experience and expertise but free from conflict of interests. The Administration confirms that this is its intention and that the Chief Executive will consider appointment of candidates from different backgrounds and disciplines so that the FRC can discharge its functions and oversee the work of the AIB and FRRC effectively. In this connection, the Administration has agreed to move a Committee stage amendment (CSA) to clause 7 to set out the backgrounds and disciplines that the Chief Executive shall consider in the appointment of the lay members of the FRC. The Administration will also move a similar CSA to clause 39 in respect of the appointment of members of the Financial Reporting Review Panel, from which members of a FRRC will be appointed.

On the functions of the FRC, the Bills Committee has examined the issue of whether the FRC's function should be purely investigatory. In this connection, the Bills Committee notes that during the public consultation conducted by the Administration in September 2003, the majority of respondents opined that the AIB should carry out only investigatory functions while the Hong Kong Institute of Certified Public Accountants (HKICPA) should retain the disciplinary function. The Administration has built on this premise in developing the Bill. In the Administration's view, this proposal has the benefit of preserving the *status quo* of the self-regulatory regime of the profession, while at the same time giving stronger teeth and greater degree of independence to the investigatory function. As the establishment of the FRC is to provide for an independent investigation of auditors' irregularities in relation to listed entities, the Administration considers that the FRC should be an impartial and effective "fact-finder" to assist, instead of becoming a party to, subsequent disciplinary proceedings. Noting that the Administration maintains its proposal that the FRC's function should be purely investigatory, the Bills Committee stresses that there should be a smooth interface between the investigations of the FRC and the

disciplinary proceedings of the HKICPA and proceedings of other law-enforcement agencies.

On the funding arrangement for the FRC, the Bills Committee notes that the Government and three other parties, namely, HKICPA, Hong Kong Exchanges and Clearing Limited, and Securities and Futures Commission have agreed to contribute to the funding of the FRC on an equal share basis. Under the original proposal, each of the four parties would contribute \$2.5 million per annum for the first three years, plus a one-off contribution of up to \$2.5 million as contingency funding. The funding arrangement from the fourth year onwards will be reviewed in the light of operational experience. However, the Bills Committee is concerned that the proposed annual budget and contingency funding may not be sufficient for the effective operation of the FRC. After reviewing the funding arrangement, the four parties have agreed to double the amount of the contingency funding for the first three-year period, and to seriously consider any justified request made by the FRC for additional funding beyond the current commitments.

To ensure the smooth operation of the FRC, the Bills Committee has examined the relevant issues and made various suggestions for improving the arrangements. The Administration has taken on board a number of suggestions of the Bills Committee and agreed to move CSAs to the relevant provisions in the Bill. I now highlight two issues which the Bills Committee has discussed in detail, namely, the secrecy provisions in clause 51 and the system for disclosure of interests provided in clause 52.

On the secrecy provisions in clause 51, the Bills Committee notes the Administration's proposal that the secrecy provisions do not apply in certain specified circumstances. In this connection, members have raised a number of concerns about the proposal that the FRC is permitted to disclose information to the Official Receiver (OR) and a liquidator or provisional liquidator appointed under the Companies Ordinance. Regarding the disclosure of information to the OR, the Bills Committee is concerned that as the OR may act as the liquidator or provisional liquidator of a company under liquidation, he will be able to receive information from the FRC under the two disclosure gateways mentioned above. This may put the OR in a more advantageous position than other liquidators. The Administration has agreed to move CSAs to clause 51 to address this concern.

Regarding the disclosure of information to liquidators, the Administration has agreed to move CSAs to clause 51 to restrict the scope of the FRC's disclosure so that:

- the FRC may only disclose information on a listed corporation under investigation or enquiry to the liquidator of that corporation, but not to other liquidators; and
- any disclosure to the relevant liquidator, including the OR in the capacity of a liquidator, could only be made if the FRC is of the opinion that the disclosure will enable or assist the recipient of the information to perform his functions; and it is not contrary to the interests of the investing public or to the public interest that the information should be so disclosed.

Despite the secrecy provisions, some members of the Bills Committee consider that the Bill should contain express provisions to protect the identity of informers who have given information to the FRC or of other persons who have assisted the FRC in an investigation or enquiry. In this connection, the Administration has agreed to move a CSA to add the new clause 51A to encode in express terms the protection of the identity of informers. The Bills Committee has also requested the Administration to consider, outside the context of this Bill and from a policy perspective, how the general system of protection of "whistle blowers" could be enhanced.

On the proposed system for disclosure of interests provided in clause 52, the Bills Committee stresses the importance of putting in place an appropriate system to ensure that members or employees of the FRC, or other persons performing a function under the Financial Reporting Council Ordinance, are not involved in any conflict of interest, as such conflicts will undermine the credibility and effectiveness of the FRC. In response to the suggestions of the Bills Committee, the Administration has agreed to move a number of CSAs to improve the relevant provisions.

However, members of the Bills Committee and the Administration hold different views on some of the operational and governance issues of the FRC. The most controversial issue is whether the Chief Executive should be empowered to give written directions to the FRC as proposed under clause 14. Clause 14 provides that the Chief Executive may, after consultation with the Chairman of the FRC, and on being satisfied that it is in the public interest to do

so, give the FRC written directions as he thinks fit with respect to the performance of any of its functions. While some members of the Bills Committee support the proposed arrangement, some other members have expressed great reservations on the need to provide the Chief Executive with such power. The latter members are particularly concerned that the proposed arrangement may undermine the independence of the FRC. Moreover, given the Administration's advice that the proposed arrangement is not particularly found in other jurisdictions, some members are concerned that it is not in line with international practices and is therefore not conducive to the development of a good business environment in Hong Kong. They consider that if the Chief Executive is to be given the power to give written directions to the FRC, the circumstances under which he may exercise the power should be set out clearly in the Bill and that the Chief Executive's written directions should be made public, though not immediately at the time the directions are given but at an appropriate time.

The Administration maintains its position that clause 14 is necessary to enable it to continue to account to the Legislative Council and the public for the effective regulation of the accountancy profession. The Administration considers that clause 14, as it is drafted, has already prescribed the necessary checks and balances on the Chief Executive's reserve power and that the clause does not require amendment. In response to some members' suggestion, however, the Secretary for Financial Services and the Treasury has agreed to incorporate the following points in his speech resuming the Second Reading debate on the Bill:

- Firstly, clause 14 is a tool of last resort for the Administration, through the Chief Executive, to implement necessary remedial measures in the most pressing and extreme circumstances;
- Secondly, the Chief Executive will take into account all prevailing circumstances, including whether there is any major malfunction on the part of the FRC, whether the reputation of Hong Kong as an international financial centre is at stake, the urgency of remedial actions required of the FRC, and whether other checks and balances are performed effectively at the time; and
- Thirdly, no direction has ever been given by the Chief Executive in the past in accordance with relevant provisions in other ordinances, as this reserve power is not intended to be used lightly.

Some members of the Bills Committee accept the Administration's stance. They hold reservations on the proposal to mandate the disclosure of the Chief Executive's written directions on the ground that the disclosure may cause adverse impact on the market and the parties concerned. Some other members however consider that the Chief Executive's power under clause 14 should be restricted. In this connection, the Bills Committee notes that Mr Ronny TONG will move CSAs to clause 14 during the Committee stage.

Another major area of concern of some members of the Bills Committee is the terms and conditions of appointment of the appointed members and the Chief Executive Officer (CEO) of the FRC. Given that no details in this regard are set out in the Bill, the Bills Committee has examined the relevant issues in detail. Some members of the Bills Committee consider that provisions should be added to the Bill to provide that:

- an appointed member of the FRC may not serve continuously for more than six years;
- the CEO of the FRC is to be recruited openly;
- the remuneration of the CEO is to be determined with reference to the remuneration of public officers of comparable level by an independent committee appointed by the FRC for such purpose; and
- the FRC should set comprehensive arrangements for the post-termination employment of the CEO.

As members of the Bills Committee have diverse views, the Bills Committee has decided by a majority of the members present that I should, on behalf of the Bills Committee, move the four items of CSAs mentioned above, and two other items of CSAs to enhance the transparency of the FRC's expenditure and regulate the transaction of business of the FRC by circulation of papers. I shall elaborate on these six items of CSAs in the Committee stage.

Lastly, Deputy President, I would like to take this opportunity to record my thanks to members of the Bills Committee for their hard work over the past 12 months, and to the concerned parties and individual members of the public for their valuable comments on the Bill.

Deputy President, the Bills Committee supports the resumption of the Second Reading debate on the Bill. Thank you.

MR CHAN KAM-LAM (in Cantonese): Deputy President, on behalf of the DAB, I speak in support of the Financial Reporting Council Bill (the Bill).

The Financial Reporting Council (FRC) is to be established to investigate into irregularities committed by auditors and accountants of listed companies and to ensure that the financial reports prepared for prospectuses or other listing documents of listed companies comply with the relevant laws and requirements in the Listing Rules. We consider this as a necessary and pressing task, particularly when a spate of accounting scandals have happened in some well-developed countries in recent years, leading to the dissolution of many giant enterprises. Such incidents have not only tarnished the reputation of the countries concerned but also undermined the interest of investors and employees. As an international financial centre, Hong Kong should ensure that the standards of its regulatory mechanism can reach those of the advanced economies of the world. Countries like the United Kingdom and the United States have long since set up independent bodies to investigate into these irregularities. It is believed that the establishment of the FRC in Hong Kong would be conducive to protecting the interests of investors and upgrade the quality of the local market.

As the Bill is a brand-new piece of legislation, so the Bills Committee has spent almost one year's time and convened 20 meetings to scrutinize it. The Bills Committee conducted extensive consultation and some 20 deputations, various scholars and professionals were invited to express their views. The consultation thus conducted can be considered sufficient. The Government has made some consequential amendments to perfect the Bill.

Deputy President, next I would like to briefly express my views on the amendments which Members will move later. For the amendments from Miss TAM Heung-man and Mr Ronny TONG, we consider that they are not necessary. Miss TAM's amendment proposes that the financial estimates of the FRC's income and expenditure be laid on the table of the Legislative Council. First of all, the special thing about the FRC is its unique and neutral character and this is meant to imbue confidence in the public that the FRC can conduct investigations and operate in an independent and impartial manner. It follows

that both of its right to conduct investigations or prepare financial estimates should not come under any form of political influence. If the financial estimates of the FRC are submitted to this Council for discussion, it is very likely that the work of the FRC will become politicized and in the end its neutrality will suffer. Moreover, the money involved in the financial estimates of the FRC is no substantial sum after all. The funding is just \$10 million and when this is added to a reserve fund of \$20 million, it is indeed not a colossal sum for a statutory body. Therefore, there is no need at all to cause the financial estimates of the FRC to be laid on the table of this Council. Furthermore, this sum of \$10 million will be contributed by a number of bodies concerned and I am convinced that these bodies will exercise great prudence in their money matters.

The amendment refers also to an amendment proposed about the written resolutions of the FRC. As a matter of fact, both the original proposal and the amendment proposed by Miss TAM are based on some rationale of their own. What Miss TAM relies on are provisions of the Construction Advisory Board and what the Government relies on are provisions in other statutory bodies. Both are really two means to achieve the same end and so we consider this amendment not necessary.

Besides, the amendment considers that the CEO of the FRC should be recruited openly. Originally there is nothing wrong about it, but the amendment also proposes that upon expiry of the term of office of the CEO, he can be appointed again without having to undergo any open recruitment. This is clearly self-contradictory. Therefore, we also consider that amendment in this regard is not necessary.

The amendment proposed by Mr Ronny TONG seeks to amend the power of the Chief Executive to give written directions to the FRC. After consultation with the Chairman of the FRC and on being satisfied that it is in the public interest to do so, the Chief Executive can give the FRC such written directions as he thinks fit with respect to the FRC's functions. The amendment considers that the Chief Executive should only give such written directions when problems have arisen in the FRC. Actually, many organizations have adopted this practice of the Government and no restriction is imposed on the powers of the Chief Executive in such a rigid manner. This is because generally speaking, the Chief Executive will not exercise such reserve power without any justification. This power will only be exercised under some very exceptional circumstances

and this is only a tool of the last resort. We therefore consider this amendment not necessary.

Mr Ronny TONG has talked with me today on whether or not I could accept his amendment. This is because what he hopes to achieve is that some restrictions can be imposed on the Chief Executive such that when he is to give a direction, it is about permitting an investigation to be conducted into some organization or directing that an investigation should be initiated, instead of giving a direction to stop an investigation. After considering his view, we think that this amendment is also not necessary for an amendment like this will restrict the consideration which the Chief Executive will make when he is to exercise his power.

Deputy President, I would also like to thank members of the Bills Committee for the hard work they have done in relation to this Bill and I wish to thank members of the public for the many valuable opinions which they gave during the consultation conducted for this Bill, thus enabling the deliberations on it to complete at last.

Thank you, Deputy President.

MR ALBERT HO (in Cantonese): The Financial Reporting Council Bill (the Bill) is by all means an important piece of legislation to reinforce our position as an international financial centre. We know that measures proposed in the Bill dovetail with some of the latest developments in the world. This is especially so for, in the wake of incidents like Enron, there have been strong demands in society that the supervision of listed companies and auditors should be enhanced and that efforts be made to ensure that such supervision is not to be carried out by people in the profession alone and people from outside the profession, that is, lay persons, can work through an effective mechanism to ensure that the work of listed companies, professional auditors and accountants and such like professionals can meet the standards required of them in society and under the law.

We know that their performance has a huge impact on the operation of this economy of ours with robust financial and investment activities. The piece of legislation in question is very technical in nature and there are many clauses which provide for the composition, functions and operation system of the Financial Reporting Council (FRC) and the two committees under it. I do not

intend to repeat the many discussions made during the deliberations by the Bills Committee, however, I wish to make just one point and that is, we really hope that after the FRC has been set up and has come into operation, it can prove that it may really discharge its role instead of being little more than window-dressing or a showcase meant to demonstrate to the world that Hong Kong has such a framework and we can catch up with those advanced financial and business centres of the world.

Another point is that I have great expectations for the FRC, especially the committee charged with investigations, that when it becomes operative, it can give an impression to the people that it only wants to hit a fly but not to kill a tiger. From what we have seen in the past, many of the investigations carried out after the closure of big companies would still leave a host of questions, many of which are still dangling in the air. People have doubts as to whether these investigations are thorough and adequate and they even question the credibility of these investigations. Even for the prosecutions initiated as a result of these investigations, we know that they are likely to lead to long and dreary legal battles, the result of which is unpredictable.

So we hope — this is the third point I wish to make — that this FRC and its committees can really ensure that listed companies and their auditors can really perform their duties and comply with the requirements of the law and the Listing Rules and that a system and measures with credibility can be built. This will make the people of Hong Kong know that should problems occur, there will be effective investigations into them and that findings with credibility will be arrived at.

When we were deliberating on this Bill, of course we were very concerned about the representativeness of the two committees under the FRC. The Government agrees that provisions will be added to provide for a balanced and broadly representative composition and that with respect to the disclosure of interest, that is, on issues with potential or actual conflicts of interest, provisions are added as improvement.

As for transparency in operation which is also an issue of concern to us, the Government is not willing to add any provision to stipulate that the FRC shall at least hold regular meetings. We consider that unless sensitive issues are involved or in the interest of confidentiality, the FRC should in all normal

circumstances hold its meetings in public. This will enable the public to know about its operation. But the Government is unwilling to make such a prescription. In my opinion, this should be reviewed in future.

At this time when we do not know yet how the FRC will operate, the Government has given a strong view, that it does not consider it appropriate to mandate the holding of FRC meetings in public and that adverse impact will be created. The Government considers that it is more appropriate for the FRC to exercise self-regulation in that matter. Though we are not completely convinced by the Government in this respect, we are prepared to make observations and conduct a review after a period of time to provide expressly that regular meetings of the FRC should be held in public by all means.

I would still wish to raise a few points about the Process Review Panel (PRP). The Government agrees that the PRP be set up for internal monitoring and checks and balances purpose. This is especially necessary when complaints arise, there is a need for secrecy on the one hand while there is also a need to ascertain whether a review should be initiated by the Government or the FRC on the other. Such a PRP will enable response be made to a complaint lodged while regular and routine internal reviews can be conducted as well.

The PRP is modelled on a similar panel of the Securities and Futures Commission (SFC), however, the Government refuses to make express provisions for setting up this mechanism. I do not see why the Government insists that this PRP should be set up as an informal mechanism instead of giving it a permanent status and statutory powers. I cannot understand this indeed. Would it be sufficient if only the PRP is established? I still have doubts about it.

Members know that there are lots of things about the operation of the FRC that are not known to the outside world. We can only rely on its internal checks and balances and the limited disclosure it makes, plus the supervision by the Government, including the Chief Executive and the relevant bureau. There is very little that the outside world can possibly know. So should we not give the PRP a formal status and enhance the role it plays so that it can respond to complaints and meet public expectations and make itself accountable to the public after a review is conducted in future? All these are very important. I hope the Government can note this point. A review can be conducted of the PRP together with the SFC after the former has operated for some time.

Honourable colleagues have put forward some views on the operational details of the FRC such as the procedures of recruiting its CEO. Members of the Bills Committee suggested that there should be an open recruitment and there should be restrictions on the maximum tenure, and so on. I think that these are necessary measures and I fail to see why the Government refuses to accept these reasonable demands. I therefore support the amendments to be moved by Honourable colleagues at the Committee stage.

Another issue which is most vital is about the powers of the Chief Executive. The powers which the Chief Executive enjoys in respect of the FRC are similar to the arrangements in statutory bodies like the SFC. This means the Government wants to keep the ultimate power to direct things to itself. If the Chief Executive considers it necessary, especially when public interest so requires, he may direct the FRC to follow his instructions and he does not have to subject himself to any procedures specified in the ordinance. I think this is a very important point. We have raised doubts and queries on this point repeatedly and we fail to see why this reserve power is necessary.

We can see in many overseas regulatory bodies of a similar nature, there is no provision for such a reserve power for their governments. There is nothing which provides that their prime minister or finance minister to hold such power. Since it is of vital importance that these regulatory bodies should be independent and credible, why does the Government lack the confidence to let this regulatory body operate with independence, autonomy and impartiality? I recall this is not the first time that a debate is held on this topic. There was a similar debate when the SFC law was discussed. If the Government wants us to trust the Chief Executive as he is the person who is ultimately responsible for the overall operation of the Government, our reply is: Since this Chief Executive is not elected by us but he is appointed, should he enjoy such supreme powers and override a regulatory body which we have great expectations for and one which should operate in an independent, autonomous and impartial manner? Therefore, not only do we remain unconvinced but we also feel strongly that this power of the Chief Executive should be removed.

Mr Ronny TONG has proposed an amendment which suggests that even if this power of the Chief Executive is to be retained, there should be some restrictions to the effect that when the Chief Executive exercises this power and gives directions to the FRC, he can only direct it to initiate investigation but not

to terminate it or overturn a decision to initiate investigation. I commend Mr TONG for his wisdom. We are worried, that in future if the Chief Executive is to intervene, not so much about he wants the FRC to conduct excessive investigations, but his intervention in the investigation of some mega listed companies or those with a special background because he does not want the FRC to investigate into these companies. This is really our true fear. What we fear most is there may be some colossal economic or political influence that compels the Chief Executive to make such a decision. In such circumstances, the independence of the regulatory body will all be obliterated. So if this power is really to be retained, it would be much better if the Chief Executive is only given the power to direct the FRC to initiate investigations. Later on I will support this amendment from Mr Ronny TONG.

As for the proposed amendments in other aspects, I do not think I will comment on them one by one. I just wish to raise one point again and it is about meetings. This is really something very strange to me. I know that every organization has some rules which provide that paper meetings may be held. This means if everyone is in complete agreement with a suggestion or a decision, they can indicate this in writing and there would be no need to convene a meeting. This is something I know very well. This is a practice found in many companies. By the same argument, if someone does not agree, a meeting should be called to debate and discuss. We believe if members of the FRC hold different views, they should be open and listen to divergent views and the reasons behind them. But the Government still insists that it would do if two thirds of the FRC members agree and the remaining one third or one or two persons who may strongly oppose the issue at hand can simply be ignored and there would be no need to call a meeting. Such a practice violates the spirit of fair procedure and meetings where meetings are meant to make decisions.

So if the Government does not agree to this amendment from us, I think this is outrageous because it is not showing any respect for the spirit of meetings and fair procedure. There is no justification for any decision not to call a meeting when someone proposes that a meeting should be called. Therefore, I will support this amendment.

MS EMILY LAU (in Cantonese): Deputy President, I speak in support of the resumed Second Reading debate on the Financial Reporting Council Bill.

In 2001, the collapse of Enron, a giant energy corporation, shocked the whole world. In 2002, another giant corporation, the Worldcom, met the same fate. In August of that year, the United States Congress immediately passed the Sarbanes-Oxley Act, which came into force in April 2003.

(THE PRESIDENT resumed the Chair)

We in Hong Kong are obviously very concerned about listed companies allegedly falsifying accounts, or problems about the ethics and conduct of professional accountants. The Standing Committee on Company Law Reform in Hong Kong conducted consultation on corporate governance in 2001, and the establishment of an authority with powers to investigate the financial reports of listed companies and to require them to make amendments was already proposed at the time. That was in 2001, President. In 2003, the authorities then said that a consultation document would be published, and the Hong Kong Institute of Certified Public Accountants (HKICPA) supported the establishment of an independent investigation organ. But we still had to wait until 2005 that the second round of consultation was conducted and the Bill was eventually introduced only in mid-2005 and is laid before us today for our endorsement. So, it has been a protracted process; but we very much hope that the Bill can be endorsed, so that at least some achievement can be made. Otherwise, if nothing could be achieved in respect of enhancing corporate governance in Hong Kong (an issue of great concern to the Secretary), all the efforts that we have made over the years would go down the drain.

I very much agree with Mr Albert HO's remark just now. In endorsing the Bill, we hope that it will not turn out to be just a vase. How can we make sure that this will not happen? People always talk about the so-called collusion between business and the Government, and this shows that people are very much worried about those giant corporates with great powers. To many people, they are the untouchables.

One of the issues is about the composition of the Financial Reporting Council (FRC). We very much hope that its members are all courageous and fearless persons. President, how is it going to be composed? It will comprise not more than 11 members including the Registrar of Companies; other members include the Chief Executive Officer (CEO), and representatives of the Securities

and Futures Commission (SFC), the Hong Kong Exchanges and Clearing Limited (HKEx) and the HKICPA, and at least four and not more than six other members appointed by the Chief Executive, who are "lay persons" or non-accountants. But how will the Chief Executive make such appointments and how will he exercise his powers? The authorities were reluctant to say much about it.

I took part in the scrutiny of the Bill on the Construction Industry Council (CIC) which has just been completed, and the channels for the appointment of members to the CIC are clearly spelt out in this ordinance. The CIC will be composed of members selected from among the industry, rather than through arbitrary appointment by the Chief Executive as in the case of the FRC. However, the authorities said no, and that we could not draw a comparison with that ordinance. They said that this could not be done and finally, they only proposed an amendment to clause 7, which will be moved later on, to briefly mention the sectors from which these members would come. This is, in fact, just better than none, and I think it cannot reflect the independence required of this group of people because they have to conduct investigation even though a billionaire of a large corporation is involved. We are very much worried that the members could not possibly do this.

President, another issue is the tenure of members, an issue that we have often discussed. Is it that members should not serve for more than six years, that the tenure of each term should be three years and that they can serve for two terms at the most? The authorities also made it clear that this is actually their policy. We noticed that (as it was mentioned earlier, some 30 deputations and individuals had given us their views) the Association of Chartered Certified Accountants (Hong Kong) considered that as a good governance practice, the Bill should provide for the maximum tenure of members appointed to the FRC. But the authorities said no. They considered that the established policy guidelines should be followed and so, they refused to take on board this proposal.

But why are we so keen on asking the authorities to spell this out in the ordinance? President, I have obtained the latest statistics, statistics of March 2005. They show that the authorities had appointed 7 000-odd people to these advisory and statutory bodies in accordance with the "six-six rule", which means that a member's term of service is capped at six years. How many people whose term of service has exceeded this rule? President, there are 1 408 of them. Then how many of them have served on more than six committees

(some are even sitting here in this Chamber)? Twenty-one. So, President, if we continue to leave this out in the ordinance, the authorities would say that an extension of their term of service is necessary for some special reasons. A civil servant once said to me, "If this is specified, I will certainly go by it because I am not going to break the law. But if this is not specified, then there will be ten thousand reasons to justify the extension of a person's term of office. There will not be any problem, for we can say that his experience is indispensable." So, this is a point that has been preying on my mind.

President, another issue is about remuneration. Members of the FRC are all on honorary appointment. In fact, I have talked about this with some members of the industry. They think that the members should be remunerated. But some think otherwise, and I agree. Some people even said that if members are remunerated, persons of mediocrity who are out of job may swarm to seek appointment. This, I think, seems to be a bit exaggerating. But why do so many people consider remuneration necessary? It is because members need to spend a lot of time on the work of the FRC, as they may face an onerous workload. The Secretary may say, "No, this is not going to happen because full-time salaried staff will be hired.", but the members still have their part to play and they are not remunerated at all. I hope that the Secretary can review the arrangement in this respect.

As for the remuneration of the CEO, we are even more concerned about it, because we noticed that the head of many similar organizations have increased their salary to a very high level. Some may even be remunerated two to four times more than the Directors of Bureau. We noticed that the Chamber of Hong Kong Listed Companies had proposed that the remuneration should be specified and referable to a certain pay level of a civil servant of a comparable rank (this is actually by no standard unfair to them), but at least, this will not result in a scenario where the CEO's remuneration is pitched at a level several times more than that of Directors of Bureau or Secretaries of Department. But the Secretary again refused this, saying that this is not feasible. Why? He said that there must be flexibility. In this connection, I will support the series of amendments to be proposed later by the Chairman of the Bills Committee, Miss TAM Heung-man.

However, the authorities had raised one point with which I very much agree and so, I will support it. That is, the point about avoiding conflict of interest. It is because we hope that a mechanism can be put in place to ensure

the credibility of the FRC and prevent involvement of its members and employees in any conflict of interest. Regarding the system of disclosure, clause 52 clearly provides for the relationships involved, such as employee of a listed company, client, or even relatives or others. But I noticed that The Law Society of Hong Kong disagreed. They said that given the onerous disclosure obligations and severity of the sanctions as non-compliance is liable to a fine or even imprisonment, it may probably be difficult to find candidates who are willing to serve on the FRC. I will wait and see whether or not candidates can be identified in future. Is it really the case that nobody in Hong Kong is prepared to take up this role (which is not remunerated)? Is that really going to happen? If so, then this would be a really knotty problem for the Secretary.

President, what does the HKICPA say? They said that it is more desirable to enunciate the general principles, but it is unnecessary to say too much about them and it is all the more unnecessary to define the scope of potential conflicts in detail. This, I do not agree. Insofar as this point is concerned, I must commend the Secretary and his team. In fact, the Secretary and his staff were willing to listen to us on many of the issues. We have held 20 meetings. The Secretary and his colleagues sometimes listened to us but at other times, they were quite opinionated. Had they not been so opinionated, Members would not have proposed so many amendments.

Having said that, however, I must thank the Secretary and his colleagues for their efforts in holding many meetings with us. As Mr Albert HO said earlier, these meetings were, on the one hand, rather technical and on the other, they involved a multitude of issues. But I found clause 14 most disagreeable. Mr Albert HO talked about this earlier, and Mr Ronny TONG will raise this point again later on. To me, I do not agree that the Chief Executive should be given this power. The Secretary has looked at the practices of relevant organizations all over the world and cannot find similar powers. But the authorities still intend to keep all these provisions intact in the ordinances such as that on the regulation of the SFC. As some colleagues have said, all these are legacy of the colonial past. The SAR has been established for nine or 10 years. Why should we still hold onto the evil remnants of the colonial past? I think this only shows a lack of confidence in ourselves. What is more, this will take a toll on the independence of the FRC, which is the gravest problem.

So, Mr Albert HO said something to this effect earlier on: "I am most worried about the Chief Executive giving a direction to the FRC and ordering them not to conduct investigation on a person. The Chief Executive would say that this person is so rich and maintains good ties with Beijing and the Chief Executive and knows so many Members of the Executive Council and Directors of Bureau and Secretaries of Department. Why is it necessary to conduct investigation on him?". Will this happen in future? Moreover, we did ask whether the directions given to the FRC could be made known to the public, but the answer was in the negative. Everything seems to smack of "black-box operation", and this is why I think that this is entirely ridiculous. For this reason, I do not support this arrangement.

Furthermore, President, we had lengthy discussions on the funding arrangement. It is because even the accountants and other professionals had told us this (honestly, they do know how much they charge): "With such a small amount of funding, that is, the Government, the HKEx, the HKICPA and the SFC each contributes \$2.5 million a year, frankly speaking, even if we add them all up, it is not enough to hire a barrister here.". Tell me, how would that be enough for legal proceedings? So, I am really very much worried, President. Then the Secretary said that the amount could be increased a bit, but not much has actually been increased as only the contingency fund is increased to \$20 million. I think when it is necessary to conduct investigation with this fund, the money in it would need to be spent. Then he said, "Do not worry. Just take a look at the caseload of the HKICPA." President, how many cases were there between 1998 and 2005? There were 14 cases only. How much was spent? \$3 million a year. I do not know what it is doing. But I think in some cases, there is a need to conduct more investigations, in order to build up our reputation.

So, I very much hope that the Secretary can make this clear, and he has told us that the four parties (he did find out what the other three parties think) strongly wish that the FRC would operate successfully. But if funding is lacking, operation would be out of the question, let alone success. It would be impossible even to maintain operation. We are worried that the information will be withheld from us, as their discussion would be conducted behind closed doors, and the reasons or incidents involved, and the decision on whether or not to conduct investigation, will hinge on intricacies. I do not know when we will be told what reasons are involved. If this is really going to happen, I think everything would really be wasted, that is, the efforts made by the Legislative Council in scrutinizing this Bill during the past year would all go down the drain.

I stand to be convinced. If the authorities are truly determined to "catch the tigers" but if it is not prepared even to provide the funding, how could anything be achieved?

Finally, I wish to say a few words about the amendment proposed by Mr SIN Chung-kai, which requires the submission of the estimates for approval by the Legislative Council. In fact, what is the big deal about it? Some people said that the amount involved is insignificant. That \$10 million is really too puny — the estimates are peanuts indeed. Mr CHAN Kam-lam even alleged that we are politicizing it and undermining its neutrality.

President, the estimates of the Judiciary are also subject to our monitoring. Does it mean that we have politicized the Judges and undermined their neutrality? Please take a look at it! This is the duty of the Legislative Council. What is the big deal of submitting it for our scrutiny? So, I will support the amendment to be proposed by the Honourable colleague later.

President, we have worked on this Bill for a whole year, and the community also has expectations of it. But the funding to be provided will only be so scarce, the powers given are not as many as required, and the members to be appointed are not that independent. We only hope, very much hope, that the efforts made over the years will not be flushed down the drain.

MR JEFFREY LAM (in Cantonese): Madam President, the financial services industry is the pillar of the Hong Kong economy. The Outline of the "11th Five-Year Plan" of our country also mentioned maintaining Hong Kong's position as an international financial centre. Therefore, I believe the establishment of a FRC to investigate accounting and auditing irregularities committed by auditors of listed companies and hence improve regulation and further upgrade the quality of financial reporting of listed companies can greatly enhance corporate governance in Hong Kong and boost investors' confidence. For this reason, the Liberal Party supports the establishment of the FRC.

Today, I would like to express our views on a number of amendments. Clause 14 of the Financial Reporting Council Bill empowers the Chief Executive to give written directions to the FRC. The exercise of this power is subject to three restrictions: the direction must be in the public interest; the Chief Executive

must first consult the Chairman of the FRC; and the direction must be related to the functions of the FRC.

I would interpret this power as "the last resort" to be used only in the most pressing and extreme circumstances, such as when the reputation of Hong Kong as an international financial centre is at stake, urgency of remedial actions required of the FRC, and so on, and the exercise of this power is subject to the three necessary restrictions that I have just mentioned. In other words, the power is subject to checks to ensure that it will not undermine the independence of the FRC. At present, the Securities and Futures Ordinance, the Deposit Protection Scheme Ordinance and the Clearing and Settlement Systems Ordinance also have this provision, but the Chief Executive has never — never — given any direction by virtue of these ordinances. This is proof that such power will not be exercised lightly. Therefore, the Liberal Party supports this original provision of the Bill.

A regards Mr Ronny TONG's amendment to clause 14 of the Bill, which confines the scope and effects of the written directions given by the Chief Executive to the FRC, I think it might excessively constrain the application of the ordinance, thus jeopardizing its role to solve pressing problems. For this reason, the Liberal Party does not support this amendment.

Clause 17 of the Bill requires the FRC to submit the estimates of the next financial year for approval by the Secretary for Financial Services and the Treasury, while clause 20 provides that an annual report on the activities of the FRC, an annual statement of accounts and audit report shall be laid on the table of the Legislative Council. The Liberal Party considers this a proper arrangement which ensures sufficient transparency for reference by the Legislative Council.

In this connection, the Liberal Party does not support the amendment proposed by Miss TAM Heung-man to clause 17 which requires the Administration to cause the estimates of the FRC to be laid on the table of the Legislative Council. Firstly, the funding for the FRC is approved by the Secretary for Financial Services and the Treasury, not the Legislative Council. So, it is unnecessary for its estimates to be submitted for scrutiny by the Legislative Council. Secondly, the three funding bodies of the FRC, namely, the HKICPA, the SFC and the HKEx have not expressed support for this

amendment. I trust these three organizations will certainly monitor the financial position of the FRC properly.

As for the other several amendments proposed by Miss TAM Heung-man, I think they will impose unnecessary restrictions on the Bill. It is proposed that the appointed members of the FRC shall not serve for more than six consecutive years. The Liberal Party considers this inflexible. We must understand that expertise in forensic accounting and auditing is required in the investigation to be conducted by the FRC, and as the investigation is normally quite time-consuming, if the term of appointment is capped at six years, members of the FRC might be replaced in the middle of an investigation and this would eventually impede the investigation work.

One of the amendments also proposes to include in the Bill a provision that the Chief Executive Officer (CEO) shall be recruited openly, and to require that his remuneration be referable to the pay level of a civil servant of a comparable rank and that the post-termination employment of the CEO shall be subject to a control period of 12 months. Our view is that as the CEO will work for the FRC on a full-time basis, if these restrictions are expressly written in the Bill, we are worried that nobody would be willing to take up this post and in the end, it would only affect the operation of the FRC.

Madam President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): I did not take part in the scrutiny. Nor am I well versed in financial matters. But something may not be just financial matters. First of all, as it is so boring today, let me tell a story.

The story goes like this: JIANG Jieshi wished to "hunt the tiger", because before the liberation, profiteering and speculation were very rampant in Shanghai and so, he ordered his son, JIANG Jingguo, to tackle the problem. In the course of investigation, JIANG Jingguo found that his uncle and cousin were involved and he, therefore, reported their involvement to his father. But later, JIANG Jieshi personally ordered JIANG Jingguo to terminate the investigation, and it was said that he had even slapped his son on his face. It is certainly cruel and barbarous for a father to beat his son and such an act is not to be encouraged, but after all, he was just beating his own son.

Now, the Chief Executive will be given the prerogative of giving a written direction to this Financial Reporting Council — the name is too long, and I will refer it as the FRC in brief — requiring it to do this or telling it not to do that, or telling it to do this, this and this, and even stopping it from doing this, this and this. OK, does this Chief Executive Officer (CEO) of the FRC has any chance to defy the order? The answer is certainly no, because it is stated expressly that the Chief Executive is given this power.

Under the law, the Chief Executive may give him directions as to what he should do. Of course, any person may resign to bare his soul and after resignation, he would be free from all those inhibitions attached to his official duties and he could say how bad the Chief Executive is. But the question is: Will he do this? Not necessarily.

From what I have heard (I actually have not read the relevant documents), under the existing provisions, it would be difficult for the CEO to defy orders. Second, the Chief Executive is not required to explain anything to anyone, not even when a direction is given. If a public announcement is made, it means that something serious might have happened, such as a raid by speculators. But he does not have to make public his directions in future, as he is not required to do so. Under such circumstance, how can we monitor the Chief Executive?

If a person is given many prerogatives, he will certainly exercise them. Of course, Mr Jeffrey LAM said that the Chief Executive has never exercised this power, but there is always a first time for everything. This is like Bin LADEN smashing the twin towers. This has never happened before. If anyone said before that somebody would be smashing the twin towers, he would be called an "idiot", and people would say that nobody would smash the twin towers. What has happened now? So, if it is stated in a piece of legislation that institutionally, an important power is conferred on a person for him to give directions to a CEO who is appointed by him and who is said to be independent and impartial, this is, in fact, quite paradoxical. It is like a person making a rat trap to catch rats, but he used a saw to cut open an iron bar of the trap and so, the iron bar can be taken away anytime to let the rat out.

I think if even such a system is worthy of commendation, it seems to go against common sense. Here, I wish to emphasize again that I know little about financial matters. But the principle remains the same for all issues, as we have

to see whether things are sensible and reasonable in all cases. Since the Chief Executive will have so great a power, how can we monitor him? We cannot, for he is not required to report anything, and I do not see that constitutionally, the Chief Executive is required to discuss with Members of the Executive Council when handling this issue. It seems that he can give directions all by himself.

What I have said is not unfounded allegation. I do have proof for it. President, take a current affair as an example. In May last year, Mr Donald TSANG claimed that he had this power. He said that he had the power to make an executive order in lieu of legislation, that he would take all the trouble to perform the duty of the Legislative Council and so, let us not argue about it anymore and just let him do it. Some people said that this was not right, but what did Mr TSANG say? He said, "That is not true. Trust me." He even said it for several times continuously; he acted arrogantly and kept putting forward many arguments. But he was proven wrong later. It was not me who said that he was wrong. It was the Judge who considered that he was wrong. Today, he seems to have borrowed the ears of the deaf. I wonder if it is because he has watched too many football matches. He said that he had seen Mrs TSANG watch matches yesterday and so, he watched the matches with her together. It might be basketball or baseball matches, right? He simply has not given a reply, and he has not apologized. He just acted arrogantly.

In fact, he is already proven to be wrong now and yet, he has not instructed his subordinate, Mr WONG Yan-lung, and other relevant persons to take remedial actions. He has not apologized. Nor has he taken remedial actions. It is like breaking other people's vase but offering no apology or compensation. How can remedies be made? Now, it is because of the delays caused by him and his breach of the constitution that only six months are left for legislation to be enacted and as six months are too short a period, no consultation can be conducted and as a result, a piece of legislation involving the privacy and freedom of communication of Hong Kong people is, for no reason at all — I mean a piece of legislation restricting the people's freedom is endorsed without consultation. It is even said that if the legislation is not enacted, this group of Members of the Legislative Council will become sinners for a thousand centuries. Chris PATTEN, oh, Chris PATTEN, who is the sinner for a thousand centuries? The answer should not be given that early.

The question now is that the Chief Executive has performed very badly on this issue. He has not admitted his mistakes and he had not taken remedial

actions. If he would exercise this prerogative in future (which means that the Secretary has convinced us to confer this prerogative on the Chief Executive) and hence tarnish the reputation of Hong Kong in future, to what extent should he be held responsible? If, in respect of a certain stock, say, of China's state enterprises, red chips or a colossal enterprise, the Chief Executive said, "Stop the investigation, because it is going to affect us.". What should be done? Will this damage our reputation? Is this corrupting? The Chief Executive himself may not be corrupt, but putting in place such a system is corrupting. Are Members trying to frame the Chief Executive or does the Chief Executive wish to frame himself?

Today, we are discussing politics. What exactly is the common sense in political studies? It is checks and balances, right? If a person gives powers to himself but he is not subject to any checks and balances, is that going to work? This piece of legislation has precisely provided for this. I have never heard that such a provision exists elsewhere in the world. That is, there is no such provision in the world which allows a person to confer powers on himself but does not provide for any checks and balances. In that case, Members, if the Legislative Council enacts this legislation, how laughable it would become, and how are we going to face SOCRATES? It is because SOCRATES said that we should ask what we do not know. He was always teased by other people and called a nut. They dismissed his questions, thinking that he knew nothing and that he was fat and short, and so on. But now, I am asking these questions: Why do things develop to such a state? Why does this happen? Why do we have to be so unique as to go against common sense? In fact, the answers are simple. The answer is that not even the Legislative Council can exercise checks and balances. Had the legislation been drawn up by the Legislative Council or Members of this Council, I think the outcome would not have been so shameless, right? We would not be so shameless as to give ourselves the power to do everything, to assume control in every area and to have a hand in everything?

So, this debate today is actually a debate about a profound issue. That is to say, in order to unequivocally display justice, we absolutely, absolutely, absolutely cannot do anything on the sly. The Chief Executive certainly knows the importance of avoiding causing suspicions, right? In fact, if the Chief Executive wishes to exercise this power, it is still possible, but why should he be exercising it himself? He can order other people to exercise this power, right? Why does he not appoint a group of people to exercise this power? This is the

case in football matches. To determine the validity of a score, a decision is made by scientific means, or with a number of referees studying the score together. Why should he make the decision himself? He could not explain this away. All he could say is that in his view, only the Chief Executive can take care of the safety of Hong Kong people.

But let us come back to the point made by Mr Jeffrey LAM about the Chief Executive not exercising this power. Had he exercised this power, he would only be going against his own interest. In fact, it is basically unnecessary for him to exercise this power and so, he wishes to leave room for manoeuvre, so that he, who is "the King", can do whatever he likes, for he is "the King". All thrones would ultimately assume the power of life and death. People who are interested can express their views. Yes, they can discuss it if they have time, and it will make no difference. However, this is absolutely, absolutely, absolutely not right.

With such a Chief Executive, it is not surprising at all that there will be this very weird rule of "six-six-six". As we all know, and I have also said this once, the Government, in appointing members to advisory bodies, has long exceeded the first two "sixes" of the rule. That is, over 1 000 appointed members have exceeded the first "six" of the rule, for they have served for more than six years; and 21 members have served on more than six committees. Members, with just one more "six" and it would make "666", which is an evil omen. Men, it means devil, and is it their objective? Is it their wish to add one more "six"? Please, Members, for God's sake, do you not feel ashamed? Do you not consider the first two "sixes" already a disgrace and do you wish to even add one more "six"? So, we must answer our conscience at all times. The Chief Executive said that strong governance does not mean forcing policies through and that if there are changes in public opinions, he would make changes in accordance with public opinions. But today, why is it that no changes are made?

This is sheer common sense. Does he know that once he put it into practice, what he has done will be recorded in history. When Emperor Yang of the Sui Dynasty built the great canal, he thought that he had made an unsurpassed achievement. Members, today, we are here to stop the Legislative Council from becoming a laughing stock. We are here to stop this FRC from becoming a laughing stock in history, and I will make an effort about this, albeit negligible. I remember Dr LUI Ming-wah had said that Mr LEUNG Kwok-hung knew

nothing but to rashly hurl abuses at people here. It is true that I know nothing. I know only one thing and that is, there is a word called "logic" in this world. Anything which goes against logic is unacceptable. Geometry proofs require axiomatic methods, or else no marks could be scored and "QED" would be impossible. With regard to this issue faced by us today, how can it be "QED" and how can we prove it?

Therefore, today, I hope that Members of the Legislative Council can really do what is right and condemn what is wrong by imposing some checks and balances on the Government and asking the Chief Executive to reconsider this matter. Can they do so? He does not have to apologize this time. I did ask him to apologize and he has not offered any apology. Yesterday, I gave him one minute to offer an apology, and he did not. So, I think Mr Jeffrey LAM or other Members should, in fact, start from this crucial point and impose checks and balances on the Chief Executive, calling on him not to exercise this prerogative but to appoint other people to exercise it? For example, can he appoint Mr LEUNG Kwok-hung to exercise this prerogative together with Mr Jeffrey LAM, Mr TAM Yiu-chung and Miss TAM Heung-man? Why should he overburden himself with so much work? All feudalistic emperors said that they had to work very hard as they had numerous problems to attend to every day. But this is bound to happen if he wishes to arrogate all powers to himself, right?

So, Members, I have spoken at length only in the hope that what happened in Indonesia, the old China, South America and even the United States where monitoring was impossible will not recur. They could not monitor certain things or systems because of man-made damages to the system. Today, we invented a system which does not even need to be damaged, for it allows free entry without having to obtain a key. Members, what are we doing here? Let me tell Members that we are now saying, "Come on in. The door is open; there is no mechanic gadget, and it does not need the sort of magic formula as that in Ali Baba and the 40 thieves, that is, one would die if he does not say 'Open sesame'. He can snatch anything he likes inside and when he has finished with the looting, he can come out without saying 'Open sesame'."

Members, I think I have talked about too many things, but please bear in mind one point: This world has logic, this world has logic, this world has logic. If we go against logic, that will be an insult to knowledge and a desecration of the wealth of human knowledge.

I hope to convey through the Legislative Council our lofty principles of respect for knowledge, respect for logic, respect for fairness and respect for openness. Thank you, President.

MR RONNY TONG (in Cantonese): President, originally I did not intend to speak at the Second Reading, but after listening to some quite strong views expressed by Honourable colleagues, I think I ought to express my views in this respect at the Second Reading.

Mr Jeffrey LAM was right when he said a while ago that Hong Kong is an international financial centre and it is no small achievement and that the industry is an important one in Hong Kong. Actually, Article 109 of the Basic Law has a special provision on the status of Hong Kong as an international financial centre. Article 109 reads like this: "The Government of the Hong Kong Special Administrative Region shall provide an appropriate economic and legal environment for the maintenance of the status of Hong Kong as an international financial centre." I know how important it is for Hong Kong to be an international financial centre and so if any attempt to enact laws will affect our international status or our status as a financial centre, we must handle it with extreme care.

When the Government submitted for the first time this Financial Reporting Council Bill to the Legislative Council, at that time I had great reservations about it. It was not because of clause 14. I had reservations then because the current system was well-established and nothing had gone wrong. So should we cause disruption to the entire system just because of the Enron case? If an organ especially tasked with investigation is added, would this duplicate our efforts in investigation and prosecution? Or would this cause more disruptions? By disruptions I mean officers in charge of investigation would just be concerned about investigation, but when a prosecution is to be instituted, the view of the prosecutor may differ from that of the investigator. What the prosecutor wants may be A but the investigator can only come up with B. So what should be done? The prosecutor will have to conduct another investigation. This was the reason for my reservations at that time.

However, when we examined this Bill I found out and I also heard some very strong views from the accounting profession. They wanted to set up an

independent investigation board. As a professional myself, I should respect the view of another profession. So from the beginning I thought efforts could be made to study into the question of whether or not this piece of legislation should be enacted and whether or not we should accept it. I was open about it actually.

But when we came to examine clause 14, I jumped to my feet. Why? It was because what we were talking about was not just something about self-discipline in a profession, not as simple as that. We have touched on the principle of the rule of law and constitutional issues. More importantly, like I said at the beginning of this speech, it may become a blemish or a time-bomb that would affect our status as an international financial centre. Why do I say that this is a time-bomb? Actually, Mr CHAN Kam-lam — he is not in the Chamber now and I hope he would be listening in the Ante-Chamber — and Mr Jeffrey LAM who put up similar arguments earlier — they held that the Chief Executive had never exercised such a power and he would not use it lightly. They also said that we should let him go for after all there were so many blunders in our laws. Sorry, I should not have said that there are blunders. This is because I have become a Member of this Council not very long ago and as for past legislation, I do not think I should be held liable. I am not criticizing Members who served on the Council previously. But is the problem here? If Mr TSANG, the Chief Executive, is really someone who is adored by the people and has never done anything wrong, he would never have to resort to using this power. Is this the reason why we should give him this power? I think this is an institutional issue, not one about his personal integrity or whether or not he would use it lightly. What we need is a mechanism or a system which is sound and so we should not care about whether or not this Chief Executive now will use this power or whether or not his use of this power will comply with the principle of the rule of law upheld by us. When we think about this point, our consideration should not be questions like who is the Chief Executive or whether or not this Chief Executive will use this power. Therefore in my opinion, the view that the Chief Executive will not use this power lightly should not constitute a justification for vesting this prerogative in him.

As I said just now, actually I did not intend to rise and speak at this moment. President, this is because it is already past nine o'clock now and we have no idea when we can go home tonight. I do not wish to repeat my arguments, for if I talk about them, I would be left with nothing to say later on.

So I hope to leave my arguments until a later time and state them before this Council and the Government.

I think that the attitude displayed by some Honourable Members is somewhat disappointing to me. Because even before they have heard all my arguments, they state as if by their very instincts that it would be hard for them to support something from Ronny TONG or the Civic Party. I hope Honourable colleagues will not treat an important issue like this with this mentality. I still cherish a thin ray of hope that Mr CHAN Kam-lam can listen to this outside and Mr Jeffrey LAM who sits behind me can listen to it as well. I hope the Liberal Party and the DAB will not handle this issue by their own instincts and they should not decide to vote against or refuse to support this amendment instinctively. I hope they can wait for half an hour more and listen carefully to what we have to say. Perhaps what we say may have a point, right? I rose to speak at the resumed Second Reading debate because I hope these two political parties can listen carefully to how we should handle this issue which will affect our status as an international financial centre. What are we going to be like in the eyes of the international investors? How will they think about our mentality of governance? These are vital questions.

I wish to stress once again — and this is a point which Mr LEUNG Kwok-hung has made very clearly earlier and in a more convincing manner than me, that it would have to depend on the system. We should never think that since nothing like that had happened in the past, so it will never happen in the future. If nothing will ever happen in the future, there would be no need to have this provision at all.

President, I just wish to make one remark and that is, I hope Honourable colleagues can be a little bit more patient. When we are at the Committee stage, those Members and political parties who have stated that they would oppose the amendment can rethink whether they should support this amendment.

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

MR SIN CHUNG-KAI (in Cantonese): President, I would like to speak through you to Mr Ronny TONG that just now when he said he jumped to his feet he was referring to his reaction after learning about section 14 (*sic*).

Maybe I am a wayward person and I got involved with Legislative Council work too early. I recall it was around 2000 or 2001, when we deliberated on a law about securities and futures. At that time, we were discussing section 11 and Ms Margaret NG jumped to her feet many times. If she were like me and had read the entire Laws of Hong Kong, I think she would be left with no strength to jump anymore. This is because the same provision is found in every chapter. Examples can be found in section 10 and section 7 of the relevant ordinance about the Hospital Authority. I recall also a few years ago when Mr SUEN said that the Housing Authority (HA) would not sell the Home Ownership Scheme (HOS) flats, I was the first to ask him whether or not section 7 would be invoked, that is, the provision about the Chief Executive issuing a direction to the HA. At that time, the HA had not held any meeting for that purpose and we did not know whether or not HOS flats were to be sold, but the Chief Executive had spoken about it. It was before Mr SUEN had done anything that Donald TSANG had talked about it, before the HA had held any meeting. The HA was told not to sell HOS flats. But the actual powers should lie in the hands of the HA. So I asked if section 7 had been invoked. He said no, not at all. Then what would be invoked? The answer given was it would be decided after they had held a meeting the following week. And so it was decided like this.

The perennial problem is like this, that is, the same thing happens with section 7, section 11 and section 14. If Members think they will jump to their feet because they are so agitated, I would tell them that there are many places that will make them jump to their feet. But, like I said, they would have no strength to jump anymore. If you ask me, I would think that it is like talking to a stone wall and it is utterly useless.

Let us come back to this Bill. Later on, Mr Ronny TONG, you do not have to worry, for you can have another chance to speak. That is to say, you can debate about it when it comes to the time to discuss section 14 (*sic*). And you can use all the 15 minutes you are given to speak, so do not waste the time you are allowed to speak.

Back to this Bill, I think there is a need for it because of the Enron case. Before the Enron case had occurred, our former colleague Mr Eric LI could well be said to have prophetic powers. Why am I saying that? Before the Enron case had ever happened, he came to the Legislative Council — I forgot the exact date — and he raised some very similar views and asked if the Council would

feel there was any need to enhance the scrutiny of the finance of listed companies in Hong Kong. Something has to be done about the financial matters of the listed companies in Hong Kong. Though we have never had incidents of a magnitude comparable to that of Enron, a large number of incidents have happened here and it can even be said that a spate of such incidents have happened and these are about such aspects. If this system is established, there would be a venue for investigations to be carried out into these incidents.

But having said all these, the president of Enron, Kenneth LAY has died of a heart attack already. Emily LAU was right when she said that the incident had dragged on for a very long time. I think that if there is such a system in Hong Kong, it would have an effect on listed companies and this means before and after they are listed, those people involved in managing their account books would need to be more vigilant. If it is asked whether or not there is any public expectation for this as our Honourable colleagues, Mr Albert HO and Ms Emily LAU have said, frankly, I think there is some public expectation. I am personally very disappointed and I do not have much expectation for it. First, the Government can ask you to do something when it feels like it and when things are almost finished, it can then say that the whole thing can be scrapped and the project can be dumped. This is what it can do. Do you not think that it is a terrible waste of efforts?

In addition, there is this lame-duck attempt of doing things — the sum of \$10 million is so trivial that it is almost nothing compared to the sum which the Big Four Companies have at their disposal when there is a need to take the accounts they have worked with to the Court, and tens of million dollars can be paid to pursue an action to the very end. However and despite all this, if there is a law to back things up, it would be much better than having nothing. Therefore, the Democratic Party supports that a law be enacted to impose regulation.

As a matter of fact, whenever we discuss the supervision of these organizations, a few questions will invariably be raised. Last time when deliberations were made on the legislation on the Construction Industry Council, Dr Sarah LIAO, Secretary for the Environment, Transport and Works might have made quite a number of concessions, like the ones on the term of office, conflicts, and so on. She was also more prepared to listen to views expressed by Members. But things are very different about this Bill on financial matters.

The Government has presented a most conservative proposal and it can be said that it is worse than a most conservative proposal. As Mr CHAN Kam-lam said earlier, he thinks financial estimates at \$10 million are so trivial that there is no need to cause them to be tabled before the Legislative Council. It is such a trivial matter. I think regardless of whether it is trivial or not, honestly, there is a provision in the Securities and Futures Ordinance which clearly states that the financial estimates of the Securities and Futures Commission (SFC) should be tabled before the Legislative Council.

This is how things are in reality. Leniency will be applied when people are prepared to comply, but stringency will rule when they are not. For papers that are submitted willingly, what we do is to ask a few questions after reading these 10 pages or so, then case will be closed. But for those papers which are submitted reluctantly, we will really ask questions every time and the case committees of this Council or committees like these will ask oral questions or Council questions. The result is that the workload of the staff in these organizations will only be increased. Honestly, for those who do not submit their papers to us, we can resort to some other ways to deal with them. Joseph YAM does not like submitting his estimates to this Council. We would pursue the matter and see what will come out of it. That is to say, it would just depend on whether or not we are prepared to pursue the matter. To be honest, if the Government is to play for time, we would of course be outlasted by it. This is for sure.

After all, the tactics are invariably those about the powers of the Chief Executive, the term of office and the estimates of income and expenditure — that is all. The Government should think about this: Will the authorities feel comfortable if the Government is to stand on the side of these regulatory bodies and let them refuse to submit their financial estimates to the Legislative Council? What is wrong with submitting their estimates to the Legislative Council? Even if they are submitted to the Council, Members here are not a Jack of all trades and they are not experts in everything. No, not at all. This is how things are like. If the estimates are submitted, the event will invite everyone's attention and so many people, we may call them informers in a sense, will inform and advise Members of this Council if they see anything wrong or irregular. To be frank, how can Members take so many follow-up actions? Every Member here has received this sort of information before. At times some sort of stories would be faxed to us for no apparent reason. Of course, some of these stories

may not be true at all but some of them at least look credible. So we may follow up and pursue the matter, enquire with the Government and pursue the matter further.

But if there is not even the minimum transparency available such as not making the budget estimates public, how can the public take any follow-up action? The Government has said that the funding of FRC comes from a few organizations and there is no allocation of funds from the Treasury. Therefore, there is no need to table the financial estimates before the Legislative Council. The case of the SFC is the same. The main source of income of the SFC is levy. However, as the Government says, there is a possibility that public money will be used in the financial estimates of the SFC, though in the past seven or eight years, or 10 years rather, no public money has been used.

Secretary, you are in fact politically accountable and so you should change practices in the Civil Service. You should change the way of doing things in all the public-sector organizations on financial estimates and make all of them make their financial estimates public before the Legislative Council. Even if these financial estimates are made public, will anything happen to them? Will they vanish? Will a disaster strike? If these budgets are made public, it would help the Government supervise these organizations. Do we think that the Government is having a good time regulating these organizations? At times it should let go of them and let the public monitor. At times it would not be easy for the Government to mind the business of these organizations. To be frank, the Government may need to do a lot of things behind their back. Just like the public officers, they will grumble in the Ante-Chamber later that they are working very hard and the civil servants will say that there will be confusion in these organizations because of what has been done.

On the other hand, all executives would actually want to be subject to less monitoring as possible. A society should move forward before there can be any progress. Why should we want to establish a FRC? The SFC regulates the listed companies, right? Has it not done a good job? Are those checks and balances there not sufficient? Well, with this FRC, it can oversee listed companies, but then who is to oversee the FRC? Members should think about these matters and the system as well. If you ask me, I would think that all regulatory bodies like the Mandatory Provident Fund Schemes Authority, that is, statutory regulatory bodies, should submit the estimates of their income and expenditure to the Legislative Council. It is only right for them to do so.

Secretary, recently the Information Technology and Broadcasting Panel of the Legislative Council paid a visit to the United States and Canada. The main purpose of the visit was public broadcasting services. In Canada, the chairman and CEO of the Canadian Broadcasting Corporation (CBC) listed all the details of overseas visits like the number of visits made and the money spent, and so on, on the CBC website. From this it can be seen how the government of another country works. Recently, the Prime Minister of Canada took over the office from his predecessor because of accountability reasons and that means it is about how a government can be made more accountable to the people.

Now as a Director of Bureau, you cannot say that civil servants have told you that it would be really bad if you do what is asked of you, that is, table the estimates of these regulatory bodies before the Legislative Council. It is because if this item is tabled, then a whole set would have to be tabled too. What is wrong with tabling all these? The Government would have a good time if it is to oversee these organizations like this. Honestly, I am not saying that the AOs in the Government are no good. They are certainly very capable. But the problem with them is that they are always in a game of musical chairs and when they have been in a certain post for three years, they may be transferred to another post and they may stay there for six years. And so the game of musical chairs is played on and on. When these AOs have got used to the duties in a certain post, it may be time for them to go. People whose profession is working with accounts are smart people and it is no easy task to oversee them and manage them.

So after all, the Government should look several problems. One of them is the term of office. Why should the term of office be set at six years? Frankly speaking, people who have been in a post for too long will get corrupted. Also, when you have been in a job for a very long time, you will find yourself lacking in something. In my case, I lack the passion demonstrated by Mr Ronny TONG and he is proposing an amendment to clause 14. I do not have this burning passion. I do not have this fluctuation in my emotions. I feel like talking to a stone wall when I talk to the Government. It is a great waste of energy. If new blood can be called in to fill these posts every six years, it would be a good idea for these newcomers would be more motivated. If people stay on a job for too long, they will not be vibrant, lacking in motivation. As for the power of the Chief Executive, I may as well leave it. This is because what every Member says on this would be the same. I have really run out of breath for this.

President, although I have been so sceptical about so many issues, I also think that in the past when I deliberated on the Securities and Futures Ordinance, I learned a great lesson from Miss AU, an official. This is something which I agree though it cannot be said to be a lesson as such really. She said that legislation in Hong Kong was very stringent, that is to say, the laws were very strict and the provisions were drafted in a very strict manner. Though this does not mean that people who break the law will get shot by a firing squad, it is a very serious matter if they do so. However, the Government is very lenient in enforcement. Just count, how many big tigers have been caught by the SFC over the years? The law is already there and it is the Securities and Futures Ordinance. I do not remember in which year it was enacted, it could be 2002 or 2001. Just imagine how many big frauds it has rounded up over these five years.

To date, there have quite a number of major incidents on fraudulent accounts of listed companies in Hong Kong. Of course, these big incidents all happened before the law was enacted. I do not know if this law has any retrospective effect. It may have or it may not. In future it can be invoked to handle some big cases. As I have said just now, what can be done with just \$10 million? Those people from the Big Four have tens of million dollars to finance a legal battle they may wage at you. But this is a good thing after all, although only very little can be done. Let us see what will happen. I know financial estimates will definitely not be tabled. So with respect to the financial estimates in future, you will have to be prepared to answer my oral questions and my written questions as well. Originally, it would be all right if you can just submit a document and that would be fine, but now I tell you, I will certainly serve you to the best of my abilities. That is to say, I may ask many Council questions and you will be annoyed to (death). I so submit.

PRESIDENT (in Cantonese): Members, now it is 17 minutes to ten o'clock in the evening. I plan to suspend the meeting after the Second Reading of the Financial Reporting Council Bill has finished until nine o'clock tomorrow morning. Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no Member wishes to speak, then I will call upon the Secretary for Financial Services and the Treasury to speak in reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, earlier on many Members have mentioned the Enron incident which aroused global concern for corporate governance and regulation of the accounting profession. Investors all over the world were shocked by the incident. It caused the dissolution of Arthur Andersen, an accounting firm which was then one of the big five accounting firms in the world as public trust evaporated. As a result of this, now we are talking about the Big Four instead of the Big Five.

To restore investors' confidence in the accounting profession, major financial centres of the world have taken various measures to enhance the regulation of the accounting profession. In the United States, for example, we know that the Sarbanes-Oxley Act (commonly known as SarbOx) has established the Public Company Accounting Oversight Board which aims at stepping up the regulation of auditors of public companies. In the United Kingdom, the Companies Act was amended in 2004 to strengthen the functions of the Financial Reporting Council of the United Kingdom in investigating and disciplining accountants and overseeing company financial reports.

In order to maintain and consolidate the position of Hong Kong as an international financial centre, Members would agree that our regulatory regime must be in line with international practices and on par with international standards. Actually, since I assumed the post of Financial Secretary in 2002, I have been discussing with the Hong Kong Institute of Certified Public Accountants (HKICPA) about this and we have examined various proposals to improve the regulatory regime of the accounting profession in Hong Kong. In 2004, Members would recall it and some of the Members here were there when the Legislative Council passed the Professional Accountants (Amendment) Bill 2004 to implement the proposals made by the HKICPA to include lay members in the governance framework of the HKICPA. The Bill can well be considered the first step taken in improving the regulation of the accounting profession in Hong Kong. I can still recall many of the Members now sitting here gave their staunch support for the Bill. Then in end 2002, Mr David Tak-kei SUN, President of the then Hong Kong Society of Accountants (HKSA) as it was called before it was renamed the HKICPA, discussed with me on matters related to the abovementioned Professional Accountants Ordinance which was amended in 2004 and also on the proposal for the establishment of an Independent Investigation Board to be charged with complaints against auditors and where public interest was at stake.

Ms Emily LAU mentioned in her speech earlier that it had been a very long time since discussions were held in 2002 and 2003. Actually in 2001, the Standing Committee on Company Law Reform also proposed the establishment of a similar body. But why has so much time been taken despite these developments? Honestly, at times I would also get very impatient, but I wish to explain to Members the process involved so that they could see that there ought to be occasions on which both the Legislative Council and the Government should quicken the pace in some matters. Now I would like to tell Members the whole process involved as I have been personally involved in it and I know very clearly the dates which the events took place.

At the end of 2002, the HKSA raised the proposal with us and after studying the proposal we considered that it was a good idea. Then in September 2003 we presented the proposal to the Panel on Financial Services. Members then did not think that the issue would be controversial and at that time we informed Members that the proposal was made by the HKSA. Then some Members raised the point that there might be some problems, that is, apart from the powers of investigation and prosecution, would the Financial Reporting Council (FRC) be given other powers? As we respected Members' views, so we went back and studied the issue for some time. In April 2004, we returned to the Legislative Council and discussed the issue for some time. Moreover, we had to consult the profession and so we prepared a very thick consultation paper. In February 2005, public views were sought on this consultation paper. That took some time as well. This is the consultation paper I am holding and Members can see that it is indeed a very thick document. Then the profession raised many new ideas and we had more discussions. I got very anxious, for I am the sort of person who is always anxious to get things done. In June 2005, I could not wait anymore and submitted the Bill to the Legislative Council. Then Members discussed it for one whole year and finally today, that is, in July 2006, we can hope that the Bill can be read the Second time. I have talked about this flow of events is to explain to Ms Emily LAU and other Members how the events have developed. Frankly, I think that I have had a long wait. But we need to respect the Legislative Council for there is a due process. In the United States, the Sarbanes-Oxley Act was enacted in a very short time, because of the outbreak of the Enron case. Over the past few years, we have been discussing the issue here and we are very lucky that in Hong Kong, nothing of this sort of accounting scandal has happened. We can proceed with the matter carefully while not in any hurry. I agree with Ms Emily LAU's view, that discussions on the Bill

have continued for a very long time and so I hope that if there is a similar Bill in future, we may need to get things done faster. I myself have been very anxious. However, I would like to make use of the opportunity to thank Members of the Bills Committee. They have worked very hard, holding 20 meetings over the past year. Members have also heard about how they examined the Financial Reporting Council Bill meticulously and their support for the resumption of the Second Reading of the Bill today.

The Bill proposes that the FRC should have two major functions and, in this connection, Miss TAM has referred to them earlier. The first is through the Audit Investigation Board (AIB) under the FRC to investigate into the irregularities which auditors have made in auditing the accounts of investment plans of listed corporations and listed entities (that is, listed companies, but the wording used must be such), and also investigating into the reporting accountants of the investment plans of these listed corporations and entities in relation to the irregularities in the financial reports compiled in relation to the prospectus or other listing documents. The Bill proposes that the FRC be conferred investigatory powers comparable to those vested in the Securities and Futures Commission under sections 179 and 183 of the Securities and Futures Ordinance which may be exercised in relation to listed companies. The proposed powers would be broader in scope than the statutory investigatory powers of the existing Investigation Panel of the HKICPA. This enables the FRC to make investigations in an effective manner. Mr Albert HO said earlier that he hopes that we will not just beat the flies but not the tigers. I think when after the FRC is set up, it will certainly consolidate the position of Hong Kong as a financial centre and it will not just target the flies but spare the tigers.

The second major function of the FRC is to act through its Financial Reporting Review Committee (FRRC) to inquire into breaches of accounting standards as set out in the Companies Ordinance and the accounting requirements in the Listing Rules in relation to the financial reports found in the investment plans of listed corporations and listed entities. The Bill proposes that the FRC be empowered to require after an inquiry that the director or operator concerned to correct the financial report in question or the FRC may apply to the Court to order that amendments be made to the financial report in question.

It should be noted that the FRC is only charged with investigatory work. We suggest that the FRC, after finishing its independent investigation into a case,

should refer the case to the HKICPA which will set up a Disciplinary Panel under the Professional Accountants Ordinance to discipline the auditor or reporting accountant concerned. The FRC may also refer the case to other regulatory bodies or law-enforcement agencies for follow-up action as appropriate. The Bill also proposes that the FRC be empowered to release a report of its investigations after taking into account all related factors.

On the composition of the FRC, many Members have mentioned earlier that a majority of FRC members, including its Chairman, must be lay persons, that is, non-accountants. We have accepted the proposal made by the Bills Committee to amend the original provisions to set out explicitly the backgrounds and disciplines that the Chief Executive shall consider in making appointment decisions. He should consider such professional experiences as those gained in the fields of accounting, auditing, finance, banking, law, administration and management, so as to ensure that the FRC members will possess the right kinds of expertise and experience.

In addition, the Bills Committee also discussed whether there was a need to add provisions in the Bill to prescribe the tenure of appointed members of the FRC and the remuneration for the CEO, the recruitment arrangements and policy governing post-termination employment of the CEO. I understand that no consensus has been reached in the Bills Committee and Miss TAM Heung-man will propose amendments in accordance with the majority views expressed by the Bills Committee. In the debate later, I will explain the Government's arguments against these amendments. Currently, laws related to other financial regulatory bodies do not impose prescriptions on matters like the terms and conditions of appointment and consecutive terms in a manner lacking in flexibility. The Government considers that there is no sufficient justification for changing the current practice. Of course, the Administration respects very much the views expressed by Members, but if the views put forward by Members will restrict the executive's power of appointment, resulting in a lack of flexibility in the Government to take into account the policy needs and the actual conditions in performing its statutory obligation to appoint members of the FRC, then it may lead to the undesirable consequence that the FRC may not be able to absorb the most suitable candidates to exercise its powers conferred by the Ordinance. Such a situation is totally unacceptable to the Government. I wish to stress that the Government will certainly adhere to the existing policy and make statutory appointments on the basis of the merits of the individuals concerned.

As the FRC possesses wide investigation powers, the Bill sets out a number of measures to impose checks on the FRC. Some members of the Bills Committee are concerned about the idea of setting up a separate appeal tribunal. The Administration is of the view that such an appeal tribunal is not necessary, for the FRC is not empowered to impose sanction or mete out punishment on its own. Having said that and taking into account Members' concern, the Administration undertakes that a non-statutory and independent Process Review Panel be set up after the establishment of the FRC. Mr Albert HO has expressed some opinion on this arrangement earlier. I wish to inform Mr HO that such an arrangement is also found in the Securities and Futures Commission and it is a proven arrangement. I am aware that most Members welcome this proposal by the Government.

The Government has also taken on board the view of the Bills Committee to add a clause to the Bill to expressly provide for the right at common law for a person under investigation to have a "reasonable opportunity of being heard" as well as for the protection of informers' identity.

The object of clause 14 is to provide for a mechanism of checks and balances that will ensure the sound governance of the FRC. The clause embodies a reserve power and it is a tool of last resort for the Administration, through the Chief Executive, to implement necessary remedial measures in the most pressing and extreme circumstances for the protection of public interest and fulfilment of the Government's duties. I must stress that this power will not be exercised unless it is necessary in the public interest that a direction should be given to the FRC and when all circumstances prevailing at the time have been taken into account. These circumstances may include whether there is any malfunction on the part of the FRC, whether the reputation of Hong Kong as an international financial centre is at stake, the urgency of remedial actions required of the FRC, and whether other checks and balances are performed effectively at the time. I must stress that such a reserve power will not be used lightly and no direction has ever been given by the Chief Executive in the past by virtue of relevant provisions in other ordinances. In other words, the Chief Executive will be extremely careful in the exercise of this power and therefore he has never used it nor considered that there is any need for using it. Nevertheless, this is a reserve power.

I know that Mr Ronny TONG's stance in this regard is somewhat different from ours. I hope Members will understand that the Government has to have such a reserve power in case of the occurrence of certain situations such as those which I have just mentioned, the Chief Executive will then be able to exercise this reserve power on ground of public interest.

Many Members have referred to the financial arrangements and in this regard I would like to thank the Securities and Futures Commission, the Hong Kong Exchanges and Clearing Limited and the HKICPA for agreeing to contribute together with the Government to the funding of the FRC on an equal share basis. Earlier on many Members asked why only such a small sum of \$10 million would be allocated. This sum of \$10 million is worked out from the experience of the HKICPA and it is not a figure made up by us. To be honest, had we said that the sum would be \$100 million, I think we would only invite criticisms from Members, that we are spendthrift and we do not see the point of setting up the FRC. Ms Emily LAU is shaking her head now. But I still recall what we have done. An example is when we wanted to rewrite the company law, it was very difficult even to get a dollar. So sometimes when we want to economize — and we are used to being economical — and also for want of a base, as the experience of the HKICPA is that \$10 million would be used, we decided that an arrangement would be made to have \$10 million for the time being and as a start. Some of these arrangements are made possible after some funding bodies have undertaken that they will input more money when it is found that money is not enough. As the Companies Registry will provide for free office accommodation for the FRC and as we know, rental is very expensive in Hong Kong, so once rental is taken care of, funding will be required only for salaries, and so on, and hence it would not be a huge sum. I would like to explain to Members who are not members of this Bills Committee why the sum is \$10 million. Actually, the sum is more than \$10 million, for rental is not included. The four parties pledge to contribute a total sum of \$20 million to the FRC as contingency funding for use during the first three years. I hope Members will not think that the funding amounts for the FRC are proposed without any basis. This sum of \$10 million is not proposed by the authorities recklessly and it has a justification and it is backed up by contingency funding for use as when necessary.

Madam President, the Bill has the general support of the sector and the public. An expeditious passage of the Bill will help enhance the quality of financial reporting, strengthen corporate governance and protection for

investors, and hence consolidate our position as an international financial centre. Once the Bill is passed, the Administration will commence work in establishing the FRC expeditiously. It is expected that the FRC will be fully operative in early 2007. Now Mr LEUNG Kwok-hung has left. I wish to tell him that the CEO of the FRC should not be called "the Secretary" as he said a number of times earlier. I would like to make it clear that there would not be many Secretaries in his sense. Lastly, I hope from the bottom of my heart that Members will support the Bill and the amendments which I will move at the Committee stage.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Financial Reporting Council 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 Members present. I declare the motion passed.

CLERK (in Cantonese): Financial Reporting Council Bill.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until nine o'clock tomorrow morning.

Suspended accordingly at four minutes past Ten o'clock.

Annex I

BETTING DUTY (AMENDMENT) BILL 2006

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home AffairsClauseAmendment Proposed

1

By deleting subclause (2) and substituting -

"(2) Subject to subsection (3), this Ordinance shall come into operation on 1 September 2006.

(3) This subsection, and sections 2(2), 10, 11(2), 12, 13, 14, 15 (in so far as it relates to the new section 6GB), 16, 17 and 18, shall come into operation on 15 August 2006."

3(6)

(a) In the proposed definition of "relevant cancelled race meeting" -

(i) in paragraph (b), by deleting "all" and substituting "each of";

(ii) in paragraph (b)(ii)(B), by deleting "those horse races" and substituting "the horse race".

(b) By adding -

"director" (董事) includes any person
occupying the position of director by
whatever name called;".

11(1) By deleting "definition of "Secretary"" and
substituting "definitions of "director" and
"Secretary"".

15 (a) In the proposed section 6GB(4) (d), by
deleting everything after "television or" and
substituting -

"radio -

(i) between the hours of 9:30 a.m. and
10:30 p.m. on any Saturday or
Sunday; or

(ii) between the hours of 4:30 p.m. and
10:30 p.m. on any other day;".

(b) In the proposed section 6GB(6), by deleting
everything after "races on television or" and
substituting -

"radio between the hours specified in that
provision if that company -

(a) broadcasts, between those
hours, on television or radio
any forecast, hint, odds or
tip relating to guessing or

foretelling the result of, or
contingency relating to, any
horse race on which
authorized betting may be
conducted; or

(b) authorizes such forecast,
hint, odds or tip to be
broadcast, between those
hours, on television or
radio."

(c) In the proposed section 6GF(1) -

- (i) by deleting "+ (L + M - N)";
- (ii) by deleting everything after
"become payable by the conductor"
and substituting a full stop.

(d) By deleting the proposed section 6GF(3).

(e) In the proposed section 6GO(1)(b), by
deleting "6GN(7)(b)" and substituting
"6GN(8)(b)".

(f) In the proposed section 6GP(2), by deleting
"all" and substituting "each of".

BETTING DUTY (AMENDMENT) BILL 2006

COMMITTEE STAGE

Amendments to be moved by the Honourable Andrew CHENG Kar-fooClauseAmendment Proposed

15

In the proposed section 6GB —

(a) in subsection (4) —

(i) in paragraph (f), by deleting “and”;

(ii) by deleting paragraph (g) and substituting —

“(g) shall conspicuously display and keep displayed notices or clearly carry statements, as may be appropriate, that comply with subsection (7) —

(i) in any premises where the company accepts bets;

(ii) on any web site through which the company accepts bets; and

(iii) in conducting any advertising or promotional activities; and”;

(iii) by adding —

“(h) shall specify a formula or rule to determine the rebates payable.”;

(b) in subsection (7), by adding “or statement” after “notice”;

(c) by adding —

“(8) The Legislative Council may, by resolution, amend the conditions referred to in subsection (4) or (5).”.

BETTING DUTY (AMENDMENT) BILL 2006

COMMITTEE STAGE

Amendments to be moved by the Dr. Honourable Fernando CHEUNG Chiu-hung

<u>Clause</u>	<u>Amendment Proposed</u>
15	<p>(a) In the proposed section 6GA(1), by adding —</p> <p>“Ping Wo Fund” (平和基金) means the charitable trust fund which was established by the Government in September 2003 and the Secretary is the fund trustee;”.</p> <p>(b) In the proposed section 6GB —</p> <p>(i) in subsection (4) —</p> <p>(A) in paragraph (f), by deleting “and”;</p> <p>(B) by deleting paragraph (g) and substituting—</p> <p>“(g) shall conspicuously display and keep displayed notices or clearly carry statements, as may be appropriate, that comply with subsection (7) —</p> <p>(i) in any premises where the company accepts bets;</p> <p>(ii) on any web site through which the company accepts bets; and</p> <p>(iii) where the company broadcasts, or authorizes to be broadcast, on television or radio any forecast, hint, odds or tip relating to guessing or foretelling the result of, or contingency relating to any horse race on which authorized betting may be conducted, in such broadcast; and”;</p>

(C) by adding —

“(h) shall transfer not less than 1% of or \$30 million out of the amount, whichever is greater, representing the difference between the net stake receipts that are derived from the conduct of authorized betting on horse races by a horse race betting conductor in respect of a charging period and the horse race betting duty payable by the horse race betting conductor in respect of that charging period to the Ping Wo Fund.”;

(ii) in subsection (7), by adding “or statement” after “notice”.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Health, Welfare and Food to Mr LEUNG Kwok-hung's supplementary question to Question 4**

As regards the expenditure of providing medical and care services for patients with Muscular Dystrophy (MD), MD is a general term for a group of uncommon neurological diseases. According to the Hospital Authority, it is estimated that there are about 700 patients with MD in Hong Kong. Some of them require hospitalization for treatment or residence in the Social Welfare Department's hostels for residential care, and some of them are living in the community with their families.

As the medical condition of and the service required by each patient with MD are different, we cannot provide the actual expenditure on the provision of medical and care services for them. Nevertheless, for those who require hospitalization and residence in hostels for people with disabilities, the cost for providing the former is \$3,500 per day per patient and the cost for the latter is around \$10,000 to \$13,000 per month per resident. For patients who require special care service, for example, ventilator care, the cost is even higher. We have explored the situations in overseas developed countries. However, figures which can reflect their actual expenditure in this regard are not readily available.