

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 6 June 2007

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

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

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Members, I wish to remind you that if the slogan affixed to your body has nothing to do with the present topic under discussion, will you please remove it for the time being and have it reaffixed when we come to that topic.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Exemption from Salaries Tax (International Finance Corporation) Order	101/2007
Bankruptcy Ordinance (Amendment of Schedule 3) Notice 2007	102/2007
Tax Reserve Certificates (Rate of Interest) (No. 3) Notice 2007	103/2007
Financial Reporting Council Ordinance (Commencement) (No. 2) Notice 2007	104/2007

Other Papers

No. 94 — Securities and Futures Commission
Annual Report 2006-2007

Report of the Bills Committee on Rail Merger Bill

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question. Mr Vincent FANG will ask the question for Mr Howard YOUNG.

Russian Nationals Visiting Hong Kong as Tourists

1. **MR VINCENT FANG** (in Cantonese): *Madam President, regarding Russian nationals visiting Hong Kong as tourists, will the Government inform this Council:*

- (a) *of the number of Russian tourists who visited Hong Kong in each of the past five years, and among them, the number of those who joined a package tour to Hong Kong;*
- (b) *of the existing channels through which Russian nationals may apply for entry visas to visit Hong Kong, and the number of applications received in the past five years as well as the average processing time taken in respect of each channel; and*
- (c) *whether it will consider granting visa-free access to Russian nationals; if so, when it will be implemented; if not, the reasons for that, and the measures to further simplify the formalities for visa application and shorten the time required?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) The numbers of Russian tourists who visited Hong Kong in the past five years are:

<i>Year</i>	<i>Visitor arrivals</i>
2002	13 248
2003	10 123
2004	19 121
2005	23 318
2006	29 708
2007 (January to April)	12 252

The Tourism Board and the Immigration Department (ImmD) do not have the breakdown statistics for Russian tourists joining tour groups in visiting Hong Kong.

- (b) At present, Russian tourists are required to obtain entry visa before visiting Hong Kong. There are two channels for visa applications.

The first channel is to submit the applications to the nearest Chinese Diplomatic and Consular Missions (CDCMs). The relevant CDCMs will process straightforward applications, and refer the more complicated ones to the ImmD in Hong Kong for processing. We do not have the statistics on the number of visas issued by the CDCMs. According to our understanding, the CDCMs may issue visas within one week.

The second channel is to submit the applications directly or through a sponsor in Hong Kong to the ImmD. For the past five years, the application figures are as follows:

<i>Year</i>	<i>Visa Application Received*</i>
2002	373
2003	197
2004	315
2005	524
2006	686
2007 (January to April)	173

* The above figures include visa applications directed to the ImmD and cases referred by the CDCMs.

The ImmD will process all visa applications as soon as possible. It has pledged to complete the processing within four weeks upon receipt of the applications and the relevant documents. The ImmD had by and large met the performance pledge in the past five years. In the light of the circumstances of an individual case, the Department will also accord priority in processing within four weeks an application where the applicant needs to visit Hong Kong urgently.

- (c) The Government of the Hong Kong Special Administrative Region (SAR) reviews its entry visa policy from time to time. Our aim is to ensure that while effective immigration control is maintained on the one hand, maximum immigration and travel convenience is

accorded to *bona fide* visitors on the other hand so as to attract more visitors to Hong Kong, thereby promoting inbound tourism and economic development. In reviewing our visa policy, we will, apart from considering the factors of immigration control and security, also take into account the bilateral economic and trade relations, reciprocity and the circumstances of individual country or territory. At present, we have no plan to grant visa-free access to Russian nationals.

Nevertheless, the ImmD is considering relaxing the requirements for Russian nationals to apply for Multiple Visit Visa (MVV). Holders of the MVV are allowed to visit Hong Kong for unlimited times within a period of 24 months and good for a stay of not more than 14 days in each trip.

Currently, one of the prerequisites in applying for the MVV is that the applicant must have visited Hong Kong three times or more in the past 12 months with trouble free records. We are considering allowing a Russian national who does not meet the requirement but has secured proof from relevant organizations certifying his business purpose of visit to apply for MVV. The relevant organizations include the Hong Kong Trade Development Council, Invest Hong Kong and officially recognized organizations in Russia.

Besides, the ImmD is considering further streamlining the present Fast Track Visa Services for Russian Group Tours from the Mainland.

The ImmD will study and implement the proposed measures as soon as possible.

MR VINCENT FANG (in Cantonese): *The Secretary stated in the main reply that the economy of Russia is developing rapidly and the number of outbound Russian nationals as tourists has increased substantially and they have high spending power. Hainan received 80 000-odd Russian tourists in last year alone. In view of this year being the Year of China in Russia, has the Government considered stepping up efforts in winning over these types of tourists visiting the Mainland to come to Hong Kong? At present, only two recognized*

travel agents process visa applications to Hong Kong. Will the Government consider increasing the number of such travel agents and expediting the visa issuing process?

SECRETARY FOR SECURITY (in Cantonese): Madam President, as I have mentioned in the main reply, we are reviewing how to expedite and streamline the Fast Track Visa Services for Russian Group Tour from the Mainland. Actually, we already have some ideas about it. Moreover, there are now only two travel agents which can process such applications. As to the question of whether, after the review, the number of recognized travel agents can be increased in future, there is indeed such a possibility. Madam President, perhaps Mr Vincent FANG can give us some time. There will be an announcement after the review.

MR ANDREW LEUNG (in Cantonese): *Regarding part (c) of the main reply, I very much welcome that the Government has reckoned the need to streamline the formalities for visa application and to step up efforts on the commercial front. However, as we have discussed securing the SAR's position as the convention and exhibition capital, we very much hope that the Government can facilitate Russian businessmen in coming to Hong Kong. The Secretary said that it sometimes takes four weeks to process visa applications. It seems not at all competitive in view of the situation now. Can the Secretary expedite the processing time?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, four weeks is the performance pledge of the ImmD for processing ordinary visa applications. In fact, many applications can now be processed within four weeks. At present, many inbound Russian businessmen apply for visa at the CDCMs. For straightforward applications, visas can be issued in one week's time. Applications needed to be processed by the ImmD are the more complicated cases, such as applying for MVVs or multiple journey visit visas. The CDCMs will only refer such applications to the ImmD in Hong Kong for processing.

The ImmD keeps its performance pledge under constant review. Nevertheless, if we want to raise the performance pledge, we certainly need to consider other factors, such as increasing manpower or resources. We will constantly review it.

MR WONG TING-KWONG (in Cantonese): *I wish to ask the Administration through the President whether, in the past three years, it has rejected any entry visa application by Russian tourists? If so, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, in the past five years, most of the visa applications from Russian nationals were approved except two applications. Certainly, there have been cases in which the applicants withdrew their applications, or they failed to provide additional documents upon our request. In fact, there are only two applications to which we have refused issuing entry visa because of certain reasons; and this is the figure for the past five years, not the past three years.

MR WONG TING-KWONG (in Cantonese): *President, I wish to ask a follow-up question. In the past five years, is there any record of Russian tourists who had successfully obtained a visit visa but were refused entry on arrival in Hong Kong?*

PRESIDENT (in Cantonese): This is a good question. Unfortunately, a follow-up question can only be put on the part not answered in the supplementary question just now. If you are interested in putting the question again, please press the button and wait for another turn.

MRS SOPHIE LEUNG (in Cantonese): *I wish to ask a follow-up question on the Secretary's main reply. As Russia is far away from Hong Kong, if Russian tourists, who have successfully obtained a visa of other territory neighbouring Hong Kong, wish to stop by Hong Kong with the visa, will the Government give them special consideration, for instance, by providing them with a tourist visa on arrival so as to enjoy a seven-day visit or similar treatment, given that they have already obtained a visa of other neighbouring territories? Will the Government consider this?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, we will not consider issuing tourist visas on arrival for the time being. Members may well be aware that our control points, in particular the airport, are very busy. If

entry visas, that is, tourist visas on arrival are issued, an office will have to be set up in the airport where inbound tourists will queue up for visa application. This may affect the operation of the airport. Moreover, it may not be desirable if tourists, who wish to visit Hong Kong, have to wait for hours to apply for the visa. I thus encourage overseas citizens, who need to apply for entry visas, to make the application in advance. If they have arrived at territories or countries neighbouring Hong Kong, they can also make the application at the local CDCMs.

As for Russian nationals, if they have arrived at or travelled to the Mainland and wish to visit Hong Kong, we have the Fast Track Visa system for them. The system, however, only caters tour groups. We are now considering the possibility of relaxing this system to cover Russian tourists travelling individually, so long as there are recognized travel agents in the Mainland to make the application for them. By so doing, we wish to see if this Fast Track Visa system can facilitate their travel. Our purpose, in introducing this system then, was to complete processing the visa application within three working days.

MISS TAM HEUNG-MAN (in Cantonese): *It was stated in the main reply just now that there are two channels for visa applications, both of which are in fact rather complicated. Certainly, the Government stated that it will simplify the formalities. Nevertheless, will it be possible that the tourists will still be denied entry into the territory despite a visa has been issued? This is the supplementary question Mr WONG Ting-kwong wanted to ask just now. Will this happen? As tourists can apply for visas at two places, will they be denied entry into Hong Kong at arriving here with the visa?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, with respect to the figure on the number of Russian tourists who had been issued a visa but were denied entry into the territory, I do not have this figure now. However, to answer this supplementary question, I wish to say that even tourists have an entry visa, it does not necessary mean that they must be able to enter Hong Kong because our ImmD officers will inspect their purpose of visiting Hong Kong upon arrival. For example, tourists might obtain visas with fake reasons and their real intention was to come to Hong Kong to work, or there might be problems with the passports; under such circumstances, we could refuse their entry in accordance with the law.

MR LAU KONG-WAH (in Cantonese): *Other than inbound visitors from Russia, there are also many Hong Kong people going to Russia and the number is increasing. Just as Mr Andrew LEUNG has said, it is indeed not very competitive to take several weeks to process a visa application. As the Secretary said that tourists would have to wait for a long time to apply for the visa on arrival, then, will the Government simply consider granting them visa-free treatment? This will be good news to both the Russians and the people of Hong Kong. If not, what is the Government worrying about?*

SECRETARY FOR SECURITY (in Cantonese): I said just now that at the present stage we do not plan to offer visa-free arrangement for Russian tourists, but I did not say that we would not discuss the visa-free arrangement with the Russian authorities. However, a number of factors have to be considered if discussion on visa-free arrangement is to be made. First of all is reciprocity, that is, if we allow them to have visa-free access, will they make the same offer in return? Secondly, we have to consider the local political situation as well as its law and order situation. In other words, if we allow people from a certain place to come to Hong Kong, will it lead to security problems in Hong Kong, and will our law and order situation deteriorate? Thirdly, we will certainly consider the bilateral economic and trade relations. For instance, by granting nationals of a certain place visa-free access, will it have positive impacts on our economic receipts? We need to consider a host of factors before making a decision.

MR LAU KONG-WAH (in Cantonese): *President, in reply to my supplementary question the Secretary said just now that there is a host of factors to consider. I wish to raise a follow-up question in relation to that. I am not sure what the Secretary is thinking now. He said that economic and security factors all needed to be considered in principle, but the present trend is that the number of Russian nationals coming to Hong Kong and that of Hong Kong people going to Russia are both on the increase. Is it because the granting of visa-free access will clash with the points mentioned by the Secretary just now that the Government does not proceed further?*

SECRETARY FOR SECURITY (in Cantonese): The reason is, let us consider the security problem. We all know that Russia is becoming affluent, but at the same time they also have mafia gangsters. Secondly, if we grant visa-free access to Russian nationals, will they be willing to reciprocate by granting

visa-free access to SAR passport holders? These are factors that we have to consider.

PRESIDENT (in Cantonese): Second question.

Safety of Underground Drainage Facilities

2. **MRS SOPHIE LEUNG** (in Cantonese): *President, regarding the safety of underground drainage facilities in Hong Kong, will the Government inform this Council:*

- (a) *whether currently there is a mechanism for monitoring, on a regular basis, underground drainage facilities and assessing if there is leakage; if so, of the details;*
- (b) *as the underground drainage facilities are ageing gradually, whether the Government has plans to replace or renovate the drains to prevent accidents caused by pipe leakage or burst, which endanger the safety of the public; and*
- (c) *of the details of the current responsibilities of and division of work among the relevant government departments, such as the Buildings Department (BD), Highways Department (HyD), Water Supplies Department (WSD) and Drainage Services Department (DSD), in relation to the operation and safety of underground drainage facilities?*

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

- (a) In order to ensure that the underground drainage facilities in Hong Kong are structurally sound and functioning properly, the Government implements a preventive inspection programme to regularly and systematically monitor the facilities. Apart from routine inspection, desilting and maintenance, the programme includes closed circuit television (CCTV) investigation or man-entry inspection for major drains in every five to 10 years to inspect the

internal structural conditions. Based on the inspection results, relevant works departments such as the DSD will assess the condition of the drainage structures and joints. If the structures or joints of the drainage facilities are found to be defective, strengthening, renovation or replacement of the facilities will be taken forward as soon as possible.

- (b) The underground drains are durable because they are usually made of materials, such as precast concrete, and not operating under pressure. Moreover, relevant works departments such as the DSD will regularly carry out the preventive inspection programme for early identification of abnormal pipe leakage or fractures. Based on their inspection results, suitable strengthening, renovation or replacement works will be carried out for better public safety. According to the assessments of the relevant departments, existing public drains are on the whole found to be in sound condition and there is no need to implement a comprehensive drainage rehabilitation, renovation or replacement programme.
- (c) The general arrangements for maintenance and repair of public drains are as follows:
- The DSD is responsible for the maintenance and repair of drains within its purview.
 - The HyD is responsible for the maintenance and repair of road drainage systems collecting runoff from roads, structures like bridges and tunnels and roadside slopes that are within its purview.
 - The Housing Department (HD) is responsible for the maintenance and repair of drains within its housing estates.
 - Other departments, including the WSD, are responsible for the maintenance and repair of drains within their respective purview.

Landowners are responsible for the maintenance and repair of drainage systems on private land. This is subject to the control of the BD under the Buildings Ordinance.

MRS SOPHIE LEUNG (in Cantonese): *President, the Secretary mentioned in part (b) of the main reply that renovation or replacement works would be carried out if abnormal pipe leakage or fractures were identified. The Secretary also said that the existing condition was sound according to the assessments of the relevant departments.*

May I ask the Secretary whether or not there is a better mechanism to evaluate the severity of pipe leakage when abnormal leakage or fractures are identified? Because sometimes renovation alone is not enough for water leakage found at home, and the severity of the leakage must also be assessed to see if it will result in ground subsidence or affect the safety of building foundations. I am very eager to know and hope that the Secretary can tell me — though they are still not available at the moment — apart from the mere renovation of fractures, whether consideration has been given to developing a better indicator of leakage to make us rest assured.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *President, since underground drains are not operating under pressure, it is therefore rather difficult to conduct accurate inspections in case of minor leakage. Yet, with the accumulation of experience, there is now a set of guidelines to analyse the condition of leakage. This set of guideline is derived through experience, and is qualitative rather than quantitative. Further refinements can therefore be made to the model of underground drains leakage, and with regard to the suggestion made by Mrs Sophie LEUNG, it has always been our wish to do better.*

MISS TAM HEUNG-MAN (in Cantonese): *President, it can be seen from the authorities' reply that problems relating to underground drains seemed to be dealt with by such relevant departments as the DSD, HyD, HD, and so on. However, is a single department assigned to oversee the effectiveness of the monitoring efforts of those departments? Is there a co-ordinating department to supervise all the relevant departments and inspect the drain damages, especially when drainage problems are found in private residential developments?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *President, the various departments are actually tasked to monitor*

and take charge of different areas, and a specific ambit is assigned to each of them. For instance, the HyD mentioned by me earlier deals with the surface drains, which are mainly found at grade. In the case of bridges — the drains are exposed, which can be seen rather than buried underground. There is a clear cut distinction between them.

Drains buried underground are within the purview of the DSD because it has a set of special tools (for instance, CCTV) for inspection. Also, mechanics must be deployed for man-entry inspections.

For underground or surface drains found within the housing estates of the HD, they are all put under the supervision of the HD. Last of all, there are the private developments. The BD is responsible for all private developments (be it building structure or other aspects), which are subject to the regulation of the Building Ordinance. There is no overlapping or confusion, and the division of work is indeed perfectly clear.

The question of whether or not the performance is satisfactory on the whole, of course, it would best be supervised by members of the public. It is because people will normally notify the DSD when blockage of drains in the streets is identified, rather than seek help from the private housing management. Nonetheless, to achieve good co-ordination generally, co-operation of the four departments is required.

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

MISS TAM HEUNG-MAN (in Cantonese): *No, President. I know that all members of the public would be busy supervising the drains every day if they were tasked to do so. My supplementary question concerns the absence of a co-ordinating department to monitor the performance of so many departments in the prevention of leakage. The Secretary has not answered my supplementary question.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, in fact, what I intended to tell Miss TAM just now is

that the division of work of each department is perfectly clear. For instance, is it necessary for the DSD to notify the HyD when leakage of underground drains is identified, that is, whether or not there is a need for this kind of communication? Certainly, public facilities such as roads, bridges, and so on, are co-ordinated by the Environment, Transport and Works Bureau, and a Permanent Secretary is tasked to effect co-ordination for all these public facilities. When such a need arises, co-operation is possible through this mechanism. Private developments, however, are within the purview of the HD, so they are dealt with separately.

MR ALAN LEONG (in Cantonese): *President, I wish to ask the Secretary in the light of part (a) of the main reply, which mentioned a preventive inspection programme that includes CCTV investigation in every five to 10 years. Given that CCTV is used, why is it not operated often to capture the view of the drains, but just once every five to 10 years? What is the existing practice?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *President, unlike the CCTV that we think of as being installed at a fixed location, the CCTV placed in a drain is like a robot, and it is connected to a video camera to capture the view inside. It should therefore be remotely controlled by man. Furthermore, the equipment is shared among different departments and used for inspection in different places at different times.*

MR LAU KONG-WAH (in Cantonese): *President, although the Secretary said that experience had been accumulated or a number of methods had been developed, cases of pipe leakage and bursting still happen commonly now. The interval between each of the so-called CCTV inspections is really too long, which is only conducted every five to 10 years. Will the Secretary consider shortening the interval so as to further reduce the possibility of pipe leakage or bursting?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *President, Mr LAU has mentioned two cases: one is the leakage*

of pipes, and the other is the bursting of pipes. At present, incidents of bursting of pipes can be heard from radio broadcasts nearly every morning. This is because the freshwater and salt water supply systems are now operating in pressurized condition. Since water has to flow all the way from the reservoirs and service reservoirs to the various high-rise buildings all over the territory, water pressure in the pipes must be high enough. It is easy for all to see whenever there is bursting of pipes because the streets will immediately be flooded.

This kind of pipe is 7 600 km long and we have a 15-year programme — which has already operated for seven years — to replace the pipes that are operating under pressure. However, fractures of old pipes will still be identified during the course of replacement. Although this kind of incidents has been minimized by all means, there is no way to further expedite the relevant work process as the replacement programme, which originally lasts for 20 years, has already been shortened to 15 years. Also, built-in pipes have been used — it is our wish to minimize excavation so as to meet the traffic needs, because serious traffic problems may arise if old pipes over the territory are all removed for replacement at one time.

Leakage is another problem, and is found in the underground drains mentioned by me. Inspection of underground drain leakage is indeed rather difficult because it may not be possible for the CCTV to clearly spot tiny fractures. Structurally, survey instruments may have to be employed to conduct close examination of the drains as early leakage can hardly be identified. Many people find this worrying as ground subsidence or landslips may be resulted when the soil is soaked with leaked water. It is therefore an issue of great concern to us. Early identification of leakage is rather difficult due to technological constraints.

MRS SOPHIE LEUNG (in Cantonese): *President, I wish to follow this up. We often heard about cases of ground subsidence, for instance, in which the Environment, Transport and Works Bureau might also have a part to play. With regard to these cases of ground subsidence, has the Secretary investigated whether such ground subsidence was attributable to the underground drains, or even attributable or slightly attributable to the leakage of pipes operating under higher pressure as mentioned by the Secretary earlier? Has the Secretary investigated it?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, a comprehensive investigation will definitely be conducted to look into the causes of each of these incidents in the aftermath. There can be a number of causes. Very often, it is due to heavy rain. When the drains failed to drain away the rainwater so quickly, water would therefore remain underground and subsequently created a hollow with repeated lapping, thereby resulting in ground subsidence. Sometimes, it is due to construction works. Massive loss of soil in construction sites will also result in ground subsidence. In the aftermath of an incident, colleagues from the Works Branch would conduct a detailed study to identify its cause with a view to preventing future recurrences. So, efforts have been made in this regard.

PRESIDENT (in Cantonese): Third question.

Enforcement of Anti-smoking Provisions

3. **MR MARTIN LEE** (in Cantonese): *Madam President, the provisions of the Smoking (Public Health) (Amendment) Ordinance 2006 (the Amendment Ordinance) relating to no-smoking areas have come into operation since 1 January this year. Regarding the relevant enforcement efforts, will the Government inform this Council:*

- (a) *of the number of complaints received by the Tobacco Control Office (TCO) of the Department of Health (DH) about the violation of the above provisions since their coming into operation, the approximate response time taken by the TCO, after receiving a complaint, to conduct an inspection at the scene, the number of inspections conducted by the TCO in response to complaints and the number of prosecutions instituted as a result;*
- (b) *given that a member of the public was earlier assaulted and injured as he attempted to stop customers from smoking illegally in a restaurant, of the initiatives and supporting measures taken by the Government to prevent the recurrence of similar incidents, as well as to resolve the problem of the public not daring to lodge complaints or stop others from smoking illegally for fear of being treated with violence; and*

- (c) *given that the Amendment Ordinance does not stipulate that managers of no-smoking premises shall be liable for failure to stop smoking in their premises, of the measures taken by the Government to ensure that such managers will do their best to facilitate the effective implementation of the anti-smoking provisions in the relevant premises?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, before replying to each part of the question, I would like to take this opportunity to express my gratitude to Members of this Council again for passing the Amendment Ordinance last October, which allowed the public to enjoy a larger smoke-free environment and enabled our tobacco control efforts to make a major step forward.

It has been our strategy to impose tobacco control through a wide range of complementary measures including legislation, law enforcement, taxation, publicity and education. Expansion of no-smoking areas through legislation is one of the major tobacco control measures. While enforcement of legislation is important to ensure that no-smoking areas are smoke-free, it would simply not be possible to attain the target solely by law enforcement in the absence of a supportive social culture in the community at large. As we stated when the Amendment Ordinance was introduced, the Administration would push ahead with the smoking ban through a strategy involving a mix of publicity and education on one hand, and enforcement and prosecution on the other, which are all prerequisites for attaining the target.

On the publicity and education front, the Government and the Hong Kong Council on Smoking and Health have launched a series of media and publicity campaigns, with focuses on building support for the smoking ban, promoting public awareness of the statutory smoking prohibition and the extent of statutory no smoking areas, soliciting the co-operation of the relevant industries in managing their premises to achieve a smoke-free environment, appealing to the self-discipline of individuals and consideration for the health of others to promote voluntary compliance by smokers and encouraging smokers to quit. By and large, the publicity and education efforts have had prominent effects. A large proportion of members of the public and the relevant industries have been compliant with the new law since 1 January 2007. I believe that inculcating a social culture that respects the statutory smoking prohibition and exerts public

pressure remains the key to effective and smooth implementation of the smoking prohibition. These efforts would continue in the months to come.

In respect of enforcement and prosecution, the Administration's main strategies are to make unannounced inspections and targeted enforcement, especially against black-spots identified on the basis of complaints submitted, for the purpose of creating deterrent effect and targeting significant violation of the smoking prohibition. As smoking usually lasts for only a few minutes, it is impracticable and unrealistic for inspectors, no matter how large their establishment is, to enforce the law by rushing to any statutory no-smoking area within minutes upon receipt of complaint for enforcement or to conduct tremendously exhaustive enforcement actions. Neither would this be a cost-effective way to utilize public resources.

In fact, the imposition of a smoking ban is no more than a stopgap measure. To tackle the problem at its roots, the solution lies in reducing the number of smokers. Some people are able to quit smoking on their own, but for those who need assistance, smoking cessation services are now made available by the DH and the Hospital Authority (HA). In the past five months, the number of people calling the DH's smoking cessation hotline has increased twofold as compared with the same period last year. I am also glad to see that family doctors and pharmacists working in the community have joined us in the provision of smoking cessation services as well. We hope that the trend will continue.

My replies to each part of the question are as follows:

- (a) Between 1 January 2007 and 20 May 2007, the TCO has received over 8 000 complaints about smoking offences in statutory no-smoking areas (though some of these are repetitive).

Since 1 January 2007, the TCO has undertaken over 4 000 unannounced inspections to shopping malls, restaurants and other statutory no smoking areas, including inspections conducted on the basis of complaints received, patrols made during special events such as flower fairs at Lunar New Year's time and football matches, and has also taken targeted enforcement actions in places of black-spot identified through complaints.

During the period from 1 January to 27 May 2007, the TCO has arranged to issue a total of 660 summonses for smoking offences. Meanwhile, during the period between 1 January 2007 and 31 March 2007, the police also issued a total of 477 summonses to smoking offenders. Normally, upon receipt of a complaint, the TCO will contact the complainant as soon as possible to understand the situation, and conduct inspections and enforcement at the premises under complaint as appropriate.

- (b) We note that in the five months since implementation of the new smoking prohibition, in absolute majority of the cases, smokers would respect other people and would stop smoking once advised to do so. If a member of the public finds out that someone is smoking in a statutory no-smoking area, he could bring the matter to the attention of the venue managers for follow-up actions and let them remind smokers of the imposition of the smoking ban. The law has also empowered venue managers to request smokers who smoke in statutory no-smoking areas to stop smoking or to leave the no-smoking area. If necessary, venue managers can also call for the assistance of the police.
- (c) To date, implementation of the statutory smoking ban has been generally smooth and successful with the active co-operation and collaboration of venue managers, for instance, to clearly demarcate the extent of statutory no smoking areas, to make smoking signs conspicuous on the premises to customers and users, to draw smokers' attention to the statutory smoking prohibition and to exercise their powers conferred by the law to stop smoking within the statutory no-smoking area where necessary.

In order to assist the managers in the effective management of their no-smoking areas, the TCO has since October 2006 conducted more than 100 capacity building workshops for venue managers of various sectors, both public and private, attracting more than 5 000 participants. Guidelines specifically catering for the needs of venue managers were also published by the TCO and distributed to venue managers.

Over the past five months, venue managers of most premises under a smoking ban have collaborated actively with the Government to

implement the smoking prohibition. Quite a few venues have also indicated that their business returns have gone up because of the ban. I am convinced that appealing to the public and the industries for collaboration remains an effective strategy in the implementation of the statutory smoking prohibition. Liaison with the industries will be maintained as appropriate.

I wish to take this opportunity to extend my heartfelt thanks to the general public for their support, co-operation and comments on the statutory smoking prohibition in the past months. As in the past, we will continue our publicity and promotion efforts and enforce the smoking ban effectively according to our strategy so as to substantially reduce the harm of secondhand smoke.

MR MARTIN LEE (in Cantonese): *Madam President, may I ask the Secretary whether advice has been given to the minority public? For instance, on seeing some people smoking at an adjourning table, I will really ask them to stop smoking. However, people are now afraid of being treated with violence. Has the Secretary considered offering a strategy like what my friend did who succeeded every time? He will tell the smoker to be considerate because his wife is suffering from a lung disease although he does not mind people smoking. Every time he will succeed in persuading the smoker to stop smoking by saying this line. (Laughter) Can the Secretary offer people such an advice?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I am sure Mr LEE's friend is certainly so experienced that he can use such a strategy. According to my experience in talking with the people, the most important thing is that if smokers are told in a courteous and respectful manner that the area concerned is a no-smoking area, meaning that smoking is prohibited by legislation made by the Government, they will voluntarily extinguish their cigarettes in most of the cases. Of course, it will even be better if a more innovative strategy can be used, such as coughing unceasingly to indicate that you are suffering from asthma and the smokers should extinguish their cigarettes. This is certainly practicable too. Very often, my family and my friends will adopt different strategies to make the smokers extinguish their cigarettes voluntarily.

Besides, regarding visitors from foreign countries or the Mainland, they may be used to smoking indoors in their native places. So, we have to step up education in this regard so that they will understand our law. According to our experience, many people would really be aware of the fact that they had to follow the local customs and refrained from smoking indoors for some time in the past. I consider it most important for us to respect each other and give advice to the others in a courteous manner. Meanwhile, I believe the community at large..... I think Hong Kong people are proud of our strong spirit of self-discipline.

PRESIDENT (in Cantonese): There are altogether nine Members waiting for their turns to ask supplementary questions, so will Members who have the opportunity to put supplementary questions be as concise as possible so that more Members can ask supplementary questions.

MR ANDREW CHENG (in Cantonese): *President, in the main reply, the Secretary has repeatedly expressed his gratitude to the Legislative Council and Hong Kong people. We also thank him for his determination because after assuming the office, he has effectively implemented the tobacco control policy, in particular in the second paragraph of the main reply, he mentioned taxation as one of the measures apart from law enforcement. President, please allow me to ask a question in this connection because revenue from tobacco duty in the past has increased rather than decreased, thus showing that the number of smokers has actually increased. So, will the Secretary advise his successor — this may also fall within your ambit — to increase the tobacco duty as an indirect disincentive to induce the smokers to kick the habit in view of the increased tobacco price? When people giving up smoking increase and people addicted to the habit decrease, the workload on tobacco control enforcement will relatively be lessened. I hope the Secretary can adopt a benevolent policy which may make us feel grateful to him.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, taxation is one of the very effective measures in tobacco control in the light of overseas experience and Hong Kong has also seen noticeable effect. Concerning the question of whether or not we should continue to increase the tax rate, I certainly give an affirmative answer from the

perspective of a person who promotes health. However, the Government will have other considerations when increasing or decreasing a tax. So, we will continue to make efforts by reducing some duty-free cigarettes, in March, for instance, and will enhance our considerations in this aspect.

MR LI KWOK-YING (in Cantonese): *According to the Secretary, the ultimate solution to tobacco control lies in a reduced number of smokers and smoking cessation services are provided by the DH and HA. But according to my understanding, these centres are open during office hours from Monday to Friday only. With limited quota, however, many people who wish to kick the habit are denied the services. The Secretary mentioned that over the past five years, the number of people calling the smoking cessation hotline had increased two fold. May I ask the Secretary what sort of services is demanded by the people representing this increase? What assistance will be provided to people seeking assistance from these cessation service centres?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, surely many people have been contemplating giving up smoking since 1 January and many people did manage to do so. I have heard many people speak out their mind. As to how people can quit smoking, I believe different people will try different methods depending on how long they have been addicted to the habit and how determined they are. So, apart from cessation services, the DH and HA will also provide them with some information. If they have confidence in kicking the habit, sometimes they can do so without professional help. However, if professional assistance is needed, the HA, DH and even many private doctors and pharmacies can also provide relevant knowledge and services. If they have already quitted smoking, I believe finance is not a problem to them.

PRESIDENT (in Cantonese): Mr LI Kwok-ying, has your supplementary question not been answered?

MR LI KWOK-YING (in Cantonese): *Yes, President, I asked what sort of solution had been provided to the people representing the 100% increase. If assistance is sought from the cessation centres, what solution will be provided by the relevant authorities?*

PRESIDENT (in Cantonese): Secretary, do you get the question? I see that you are frowning.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): According to my understanding, the increased number of people seeking information mainly want to know what can help them quit smoking. Our professionals can only provide solutions according to their own smoking habits or their other concerns.

MISS CHAN YUEN-HAN (in Cantonese): *In his reply to parts (b) and (c) of Mr Martin LEE's question, the Secretary mentioned some situations. In fact, sometimes we will also suffer from the nuisance and face difficulties when we encounter smokers in restaurants or other places. Instead of adopting the strategy of Martin's friend, I will only hold my breath. Theoretically, I can complain to the staff or their supervisor. But I found it extremely difficult. According to part (c) of the main reply, the authorities have conducted more than 100 seminars or workshops for venue managers of both public and private sectors. As the legislation has been implemented for six or nine months, will the Administration invite them back to give views in order to make relevant amendments? I feel that venue managers are afraid of enforcing the provision or advising smokers to stop smoking. So, they will tell the patrons to make the advice. Does the Government have made any preparation? Among such preparation, I would like to know the Government's position as to whether or not it has heard of people being treated with violence when advising smokers not to smoke or even intimated and then reporting the case to the police?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I would like to say that it is not a good idea to hold your breath for I believe that everyone needs to breathe. It is even not worthwhile to do so particularly because there are smokers in the vicinity. I think we should exhale instead. So, on seeing such problems, we should report the case to the restaurant manager and take action together. Many smokers will extinguish their cigarettes voluntarily when being watched. I think action should be taken. Regarding whether we will take follow-up action by soliciting the feedback and experience of the venue managers of the trade, particularly

after the legislation has been implemented for a period of time, the TCO will continue to make such efforts. After collecting much information, we will know the location of the black spots where inspections will be stepped up. We also hope that more training will be provided to venue managers so that they will be bolder to handle the problem in an organized manner. If they do not have the courage to work on their own, they may take action *en masse* by joining other staff or patrons. In that case, it will be easier and more effective.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, has your supplementary not been answered?

MISS CHAN YUEN-HAN (in Cantonese): *President, the Secretary has not answered my question. I asked, after the law has been implemented for a period of time, whether the Secretary is prepared to listen to the views of the managers responsible for venues subject to the regulation in order to decide whether the legislation should further be tightened after nine months of enforcement, for instance. The Secretary has not answered whether or not such preparatory work has been done.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we have not only made effort in this aspect but will also conduct a comprehensive review which will cover not only this group of people. Of course, we will continue to give support to them. As I just said, the TCO has kept in touch with them and will strengthen the training for them if necessary. Most importantly, however, if we wish to make any amendments to the legislation, we have to wait for some more time because the legislation has been implemented for only five months. I do not think we should make amendments so soon simply because of some minor problems. The community as a whole will also need time to adapt to it. Generally speaking, the legislation is broadly accepted by the people who have a strong ability to exercise self-discipline. So, this is what I referred to when I said that I was very proud of Hong Kong people. We have in fact surpassed many Western European countries which have a high opinion of themselves in terms of civilization and tolerance. I think we should be proud of ourselves because of this.

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

MR TOMMY CHEUNG (in Cantonese): *President, to a large extent, I agree to the Secretary's reply today, in particular, his tolerant attitude. I think both smokers and non-smokers should adopt a tolerant attitude towards each other.*

President, I would like to ask the Secretary a question. In a number of workshops organized by me for the catering industry, one of the key issues of our discussion is that we will ask the smoker to leave after giving him advice and will call the police in case of non-compliance. However, the authorities told us to call the local police station instead of calling 999. Though sparingly, I do have received some views of the trade who said that they were often informed to call the TCO when calling the local police station. However, they found that the TCO's line was often engaged and even if they could manage to get it through, no staff would be sent to deal with the matter. I would like to ask the Secretary a simple question: Will the Secretary liaise with the Secretary for Security or the Commissioner of Police so that police officers who are on patrol nearby will be sent to the scene to help handle the case upon receiving a complaint? Can the Secretary follow up the relevant situation or try to understand whether it is the actual situation or a situation which frequently occurs?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I do not have figures on this but I will certainly reflect the situation to the police to see how the problem can be dealt with in a more effective manner.

PRESIDENT (in Cantonese): Fourth question.

Regulatory Arrangements for the Two Power Companies

4. **MR FREDERICK FUNG** (in Cantonese): *President, the Government is holding discussions with the two power companies on the post-2008 regulatory arrangements. In this connection, will the Government inform this Council:*

- (a) *of the latest progress of the discussions with the two power companies, including the consensus reached so far, and whether the regulatory arrangements are expected to be finalized within the current year as scheduled; whether the two power companies still insist on a higher rate of permitted return and a longer period for the agreements; if so, of the measures in place to deal with the situation, and whether it will drop its related proposals made earlier;*
- (b) *whether it knows the stance of the two power companies on the entry of new electricity suppliers into the electricity market, and of the impact of their stance on the ongoing discussions; whether it will reject any proposals for offshore supply of electricity to Hong Kong in order to protect the interests of the two power companies; whether the terms of the new regulatory arrangements will apply to new electricity suppliers in the future; and*
- (c) *of the impact of the impending change of government and the reorganization of Policy Bureaux of the Government Secretariat on the ongoing discussions?*

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

- (a) In 2005 and 2006, the Government conducted a two-stage public consultation on the "Future Development of the Electricity Market in Hong Kong". During the consultation period, we received views of the Legislative Council, and organizations and individuals from different sectors of the community. The Government has carefully studied the views received and reported the consultation results to the Legislative Council Panel on Economic Services. Since middle last year, we have been discussing with the two power companies the post-2008 regulatory arrangements. The issues discussed include the regulatory framework of the electricity market, term of the agreement, rate of return on fixed assets, mechanism for setting tariff, linking the rate of return to emissions performance, and so on. As the Government is still negotiating with the two power companies, it is not appropriate to disclose the relevant details at this stage.

The Government understands clearly the views and expectations of the public through the public consultation exercise conducted earlier. The Government's position is that the new regulatory package must be in the overall interests of Hong Kong. Our target is to finalize the post-2008 regulatory arrangements this year.

- (b) In processing any new application for supplying electricity, the Government will take public interest as the primary consideration. The Government's decision will not be dictated by the views or stance of the two power companies. We shall take into account whether the relevant proposal for supplying electricity can comply with the relevant legislation and provide consumers with reliable, safe, environmentally-friendly and efficient electricity supply. We shall also consider aspects such as land use and the planning standard, design and operational mode of the proposal. Assessment will be made on the impact of the proposal on the public and on the future opening up of our electricity market. For example, if a proposal entails laying a new network for electricity supply in an area already installed with such a network, the Government will be concerned that duplicative road-digging and cable-laying works would cause disturbance and inconvenience to the public. We are not aware of any other place that adopts such an approach in opening up its electricity market. Moreover, duplicating supply network is not a sustainable way to open up the electricity market and it will make the progression to an open market even more difficult. The Government will consider new applications for electricity supply having regard to the above factors.
- (c) Environmental protection and energy are closely related. The Government's proposals on the post-2008 regulatory arrangements have included a number of initiatives on environmental protection. The Economic Development and Labour Bureau and the Environment, Transport and Works Bureau have been working closely and have jointly discussed various topics on environmental protection with the power companies. The reorganization of Policy Bureaux would not have any impact on the Government's ongoing negotiation with the power companies.

MR FREDERICK FUNG (in Cantonese): *President, in part (b) of the main question, I asked whether the entry of offshore power companies to the electricity market in Hong Kong will bring about competition to the two power companies here, and whether the Government would reject such proposals in order to protect the interest of the two power companies. I am glad to hear the Secretary say earlier that he holds a rather open attitude towards this.*

My supplementary question is about renewable energy, for wind power and solar power are the main sources of renewable energy, which can be generated more easily and at lower costs at offshore locations. May I ask the Secretary, in respect of part (b) of the main reply, whether the Secretary will allow some offshore power companies to compete in the electricity market of Hong Kong, or stipulate under the new agreements the use of renewable energy, such as wind power or solar power, by the two power companies?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I believe the greatest concern of Members is whether or not our electricity market will be opened up in future to allow more offshore companies not established in Hong Kong to supply electricity to Hong Kong via the power grid here to provide more choices and lower tariff for the public. In this respect, I think Members know that we are now talking about the supply of electricity by the Mainland. I think the crux of the problem is when the mainland market will have spare capacity to supply electricity to Hong Kong.

Members may notice from recent reports in the press that electricity supply in Guangdong is very tight. We have to stress that at present, in the negotiation over the new agreement, we will make all the preparations to facilitate the regulation of the electricity network upon its opening in future, and make all the necessary arrangements. Our objective is to facilitate the entry of new power companies to the Hong Kong market in future.

On the question of whether renewable energy or other sources of energy will be used, it is most desirable that renewable energy will be used, but even if other sources of energy are used, they will be allowed to enter the market of Hong Kong. The most important point is that with the availability of more choices of power supply, the lowering of electricity tariff payable by the public will become hopeful.

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

MR FREDERICK FUNG (in Cantonese): *Yes, for my supplementary question asked whether the authorities would stipulate the use of renewable energy by the two power companies upon the renewal of agreements. The Secretary has not answered this part of my question.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): In respect of the two power companies, I think Mr FUNG also knows that different rates of return have been set. That is to say, if power companies use renewable energy, they will be entitled to a higher rate of return. I believe Members are aware of this arrangement.

Moreover, discussions have been held on allowing users of renewable energy to use the power grids of the two power companies. I had mentioned this point last time when I answered a question from Mr Frederick FUNG. In other words, we encourage them to do so and they have shown good response to this.

MR CHIM PUI-CHUNG (in Cantonese): *President, we know from the main reply of the Secretary that the policy on the liberalization of the telecommunications market in Hong Kong is very good. However, with regard to electricity and other sectors, oil supply in particular, we have many different views.*

My supplementary question is about a point made by the Secretary in the main reply about consideration of public interest, but it is no fair competition if prices charged are tailored to the services provided. Does the Government really want to uphold fair competition, just like the approach it adopted for the liberalization of the telecommunications market, or is the Government just making half-hearted attempts?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have to thank Mr CHIM for his concern about fair competition.

I believe Mr CHIM also knows that we have all along been working on the drafting of a fair competition law..... this is not only a territory-wide..... we are now drafting the legislation on this. Your supplementary question is mainly about public interest. First of all, I have to thank you for asking this question so that I may explain the case here.

In respect of public interest, our primary concerns are: first, price. I believe all members of the public hope that electricity tariffs can be lowered slightly. I have repeatedly said that we considered the current rate of return on fixed assets for the two power companies, which ranges from 13.5% to 15 %, is too high. I have also indicated in this Chamber that we consider the suitable rate of return should be single digit. Second, we have to ensure the reliability and stability of power supply, which is of the utmost importance. Third, we also attach importance to environmental protection. By means of the new scheme of control agreement, we will ensure that the two power companies will double their efforts in reducing emission and alleviating air pollution, and so on. These are our considerations.

DR RAYMOND HO (in Cantonese): *President, in part (b) of the main reply, the Secretary said that it was undesirable for new applicants of power supply to carry out duplicative road-digging and cable-laying works, which would cause disturbance to the life of the public. Is the Secretary suggesting that the electricity supply network will be opened up? If power companies refuse to open up their power grids, what will the Government do? Will the Government allow these new power companies to lay cables and wires at remote areas, so that residents of those remote areas can use the electricity supplied by these suppliers? However, if the two power companies refuse to provide back-up supply, residents in those remote areas will be deprived of reliable and efficient power supply. Will it be unfair to those residents?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have to thank Dr HO for giving me another opportunity to explain the case.

I would like to reiterate that it is a common practice in the international community that when an electricity market is opened up, only one power grid is in place. I believe few places..... I do not know which places have several

networks supplying electricity to customers simultaneously. Therefore, we are deeply concerned about the duplication of network by new suppliers supplying electricity to Hong Kong, for this may cause impact on the environment and in various aspects.

Moreover, we have to consider one more point. If a new electricity supplier is allowed to lay a new network, could we disallow another new supplier entering the market to do so? We cannot. However, if approval is again granted, will this result in the existence of several electricity supply networks in certain places? This is possible. When the power grid is opened up in future — as far as I know, each and every place around the world is only supported by a single power grid — if a number of power grids are in place, first, the procedures will be more complicated and difficult, for we have to decide which grid should be used for transmission and which should be used for supply? Moreover, this will put us in a more complicated position in exercising control.

DR RAYMOND HO (in Cantonese): *The Secretary has not answered the second half of my supplementary question: Will a new supplier be allowed to carry out road-digging and cable-laying works in remote areas, and will it be unfair to those residents for they may not necessarily enjoy reliable and efficient electricity supply? President, the Secretary has not answered this part of my question.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): My answer is: The same principle applies whether or not the area involved is a remote area. The principle I mentioned earlier is that the laying of a new network by a new supplier is considered unsuitable. I have said earlier that it was inappropriate to lay new networks. In fact, we are not disallowing new suppliers from supplying electricity to Hong Kong, but the principle is that they cannot lay new networks and have to work it out by negotiation. This is our current position. However, the opening up of the power grid in future is our common goal. I believe every Member in this Chamber hopes for the opening up of the power grid and the separation of power plants from supply networks in future. This will then be followed by the setting up of a regulatory body. By then, all electricity suppliers may use the grid. Upon the setting of prices and drawing up of regulations, competition will be introduced. This is what we wish to see in the future.

MS AUDREY EU (in Cantonese): *President, in part (a) of the main reply, the Secretary said that the Government was still discussing with the two power companies, and the issues discussed included the linking of the rate of return to emissions performance. I would like to pose a question to the Secretary about this. President, you also know that global warming has now become a grave concern of the international community. The weather of Hong Kong has been extremely hot this year. Actually, last year, the weather also turned extremely hot since June. However, at present, the emission of greenhouse gases, most of which produced in the course of power generation, is not subject to regulation in Hong Kong. Therefore, will the Secretary give me a clear-cut answer on whether or not the aforesaid emission performance also includes the emission of greenhouse gases?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): In this respect, the general emission standards specified in the licence is adopted at present. We will follow the standards specified in the existing licences of the two power companies, if they fail to meet the standards, the rate of return to which they are entitled will be deducted.

MS AUDREY EU (in Cantonese): *The Secretary has not answered my supplementary question. I did not ask him about the existing mechanism, but the new mechanism now under discussion between the authorities and the two power companies. The emission of greenhouse gases is now an issue of grave concern, why does the Secretary seem to be at a loss? My question is: When the authorities discuss the new scheme of control agreement with the two power companies, will control over the emission of greenhouse gases be included?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Under the mechanism, control over discharges and emissions are exercised according to the specifications set out in their existing licences. In other words, the two aspects are linked. Therefore, regarding the control over gas emissions, we will follow the emission standards specified in the existing licences.

MS AUDREY EU (in Cantonese): *President, does the Secretary mean that such control is not included? Does he mean that discussions with the power companies about the post-2008 regulatory arrangements do not cover the emission of greenhouse gases at all?*

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I would add the same remark, that is, we follow the emission standards specified in the existing licences.

MR FRED LI (in Cantonese): *President, in his reply to Dr Raymond HO's supplementary question, the Secretary stated clearly the Government's position on the liberalization of electricity market was that no new network-laying and road-digging works would be allowed. The Secretary also mentioned this point in his main reply.*

I would like to ask the Government a question. If cleaner energy, such as water power or other energy sources, is now available on the Mainland, which may alleviate the pollution caused by coal-fueled generators of the local power companies, when could the electricity so generated be connected to the transmission networks of the existing power companies in view of the prohibition on laying new networks? President, without a franchise, how can their networks be connected to the transmission networks of the existing power companies, thereby allowing the public to have one more choice and cleaner and cheaper electricity?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I believe we are working towards a common goal, the liberalization of the electricity market. Therefore, as I have said in my earlier replies, we have to complete all the preparations properly. I believe Mr LI also knows that the existing networks for electricity supply belong to the two power companies, if we have to open up the network, reasonable charges have to be set and a new framework must be set up for supervision and the formulation of various requirements. Actually, the objective is simple, that is, to open up the electricity supply network for new electricity suppliers to supply electricity to

Hong Kong for the purposes of introducing competition and providing more choices for the public. In fact, we are working on this now.

However, if this is to be done immediately, it will involve many amendments of legislation, and all these need time. Therefore, I think the most practical approach is to make use of the remaining time to arrange for all legislative work and the setting up of a new framework. And then, when the suitable time comes, that is, when the Mainland has the capacity to supply electricity to Hong Kong, we can open up our electricity market.

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

DR KWOK KA-KI (in Cantonese): *In part (b) of the main reply, the Secretary stated clearly that the authorities will by all means open up the electricity market. But at the same time, the Secretary stated clearly that the laying of a new electricity supply network was undesirable. Is this inconsistent with the approach adopted by the Government in the past? I recall that in the liberalization of the telecommunications market, the Government did allow certain telecommunications service providers to lay new networks, including fixed networks. Is not the present approach adopted by the Government a change of a proven policy? Does it aim to continue to provide benefits to the two power companies by allowing them to continue to monopolize the market?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have made it very clear just now that public interest is in fact our main concern, for the liberalization of the electricity market is the aspiration of all of us.

As I have explained clearly earlier, according to the current practice adopted in the international community, the liberalization of the electricity market will not be achieved by the laying of a number of power grids. I believe Dr KWOK will also understand that if the electricity supply of a household is supported by a number of supply networks at the same time, it is primarily a duplication of resources. Members know that the laying of electricity supply networks involves road-digging works which will affect the environment. Is it

necessary? If a number of power grids have to be set up to facilitate the liberalization of the electricity market — as I have said earlier, the single-network approach for electricity supply is now adopted around the world, while all parties concerned will use the same network to charge tariff. If a number of power grids are set up, will the issue become more complicated? Which network should then be used? Is it a duplication of resources? Actually, this is not a new policy but an approach now adopted in the international community. We thus consider this the most suitable approach.

DR KWOK KA-KI (in Cantonese): *President, the question I put to the Secretary was crystal clear. I, in fact, want to highlight the difference, for in the past, the approach we adopted for the telecommunications market allowed new service providers of fixed networks to lay new networks. My question is: Is this a change in policy, in other words, is the Government going to bring about a major policy change? President, the Secretary has not answered this part of my question.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I believe Dr KWOK was referring to fixed networks of the telecommunications market when he mentioned fixed network providers. Am I right? However, we are now talking about the network for electricity supply, which is a totally different matter.

PRESIDENT (in Cantonese): Fifth oral question.

New Starting Salaries for Civil Servants

5. **MS EMILY LAU** (in Cantonese): *President, on 1 April 2000, the executive authorities adjusted the starting salaries of civilian and disciplined grades downwards by one to six pay points. On the basis of the findings of a survey of the starting salaries in the private sector, the executive authorities decided on the 15th of last month to adjust the starting salaries of some civilian grades and most disciplined grades upwards by one to five pay points. As for serving civil servants appointed on or after 1 April 2000, their salaries will be brought up to the same level as the new starting salaries if they are below the new*

starting salaries for the respective ranks; and their salaries will be increased by one pay point, subject to the maximum pay point of their respective ranks, if they are the same or higher than the new starting salaries for their respective ranks. In this connection, will the executive authorities inform this Council:

- (a) whether members of the public have reflected to them the view that the new starting salaries for certain grades are too high or too low; if so, of the details;*
- (b) given that serving civil servants appointed on or after 1 April 2000 will only be given an additional pay point even though their length of service is as long as seven years, whether the authorities have reviewed if this arrangement is fair to them; and*
- (c) whether the authorities will, in the light of the length of service of these serving civil servants, review their salaries afresh; if not, of the reasons for that?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, as regards part (a) of the question, the Civil Service Bureau has so far received around 10 written comments from members of the public (excluding civil servants) on civil service starting salaries. Their views, which are not supported by detailed rationales, are that the starting salaries for some grades including teachers, engineers, liaison officers and administrative officers are higher than those offered in the market.

The civil service starting salaries are determined in accordance with the educational qualification method as recommended by the Standing Commission on Civil Service Salaries and Conditions of Service (hereafter refer to as "Standing Commission"). Briefly, the benchmark salary for each qualification group (QG) is determined having regard to the entry pay for jobs in the private sector requiring similar qualifications. The starting salaries for ranks within each QG are in general the same as the relevant benchmark. For those grades with special job requirements or recruitment difficulties, the starting salaries of their entry ranks are set at one or a few points higher than the relevant benchmark. The recommended starting salaries for the Civil Service are determined in accordance with the established mechanism. They are based on the results of the 2006 Starting Salaries Survey (SSS) and the application

packages endorsed by the Chief Executive in Council. Our recommended starting salaries revisions are supported by the Standing Commission and the Standing Committee on Disciplined Services Salaries and Conditions of Service (hereafter referred to as "Disciplined Services Committee"). The staff sides of the four central consultative councils and the representatives of the four service-wide civil service unions also consider our recommendations acceptable.

As regards parts (b) and (c) of the question, that is, the adoption of the normal conversion arrangement for affected serving civil servants, I would like to provide the following consolidated reply.

President, the last SSS was conducted in 1999, which resulted in the lowering of starting salaries from one to at most six pay points for a majority of the entry ranks took effect on 1 April 2000. The starting pay for the remaining entry ranks remained unchanged at that time. In the light of the results of the recently-completed 2006 SSS and the application packages, the Government decided to increase the starting salaries for certain ranks by one to at most five pay points, while the starting salaries for the rest would remain unchanged. If our recommendations are approved by the Establishment Subcommittee and the Finance Committee, new recruits to those ranks with increase in starting salaries may be paid higher than serving civil servants appointed on or after 1 April 2000 at lower starting salaries. From the point of view of staff management, we need to reasonably and suitably adjust the salaries for affected serving staff.

SSSs were conducted from time to time in the past. There is a span of 10 years between the 1999 SSS and 1989 SSS, and another span of seven years between the 1999 SSS and the 2006 SSS. In view of the rapidly changing landscape of the private sector in respect of starting salaries, a SSS will be conducted periodically at three-yearly interval starting from 2006. That a SSS will be conducted regularly every three years — rather than on an irregular basis with considerable span between two SSSs — is an important component of the improved civil service pay adjustment mechanism. This is supported by the Standing Commission, the Disciplined Services Committee, the staff sides representatives of the four central consultative councils and the four service-wide staff unions.

In the light of the abovementioned fundamental change, we have to carefully consider and balance the interests and concerns of the public at large and those of the affected serving civil servants before deciding what conversion

arrangement should be adopted. While the 2006 SSS reveals that the starting salaries for some grades should be increased, we are not in a position to foretell what the results of the 2009 SSS, the 2012 SSS and the SSSs to be conducted every three years thereafter will be. There are possibilities that the results will indicate a need for either upward adjustment, downward adjustment or remained unchanged.

In accordance with the established practice, serving civil servants will retain their existing, higher pay when a SSS results in the lowering of starting salaries. If, having regard to the 2006 SSS and its application packages, the Government increased the salaries for affected serving civil servants in full, that is, including all the annual increments, omitted points/incremental jumps (if any), and incremental credits for relevant years of experience (if any) they have earned, and in the event that the results of the 2009 or 2012 SSSs showed that the starting salaries should be adjusted downwards and in accordance with established practices, the pay of serving officers will not be affected, the public will call such arrangement into question and will consider this against the principle of even-handedness. Adopting full conversion this time round without any risk of downward adjustment in future (as affected serving civil servants are shielded from the risk of downward adjustment in pay arising from future SSSs) would give rise to public outcry, as this goes against the principle of even-handedness. The public would also question whether this is a prudent use of public monies.

Having regard to the abovementioned considerations, we consider that the normal conversion arrangement strikes a right balance between the legitimate concern of the public for even-handedness in treatment and prudent use of public monies on the one hand, and the need for reasonably and suitably increasing the salaries for affected serving civil servants on the other. The normal conversion arrangement ensures that serving civil servants would be protected against downward adjustments to starting salaries arising from a SSS, while providing suitable upward adjustment to pay (when a SSS results in the increase in starting salaries) so that the pay for affected serving civil servants will be equal to the new starting salaries or one point higher than their existing salaries. We consider that the normal conversion arrangement puts in place a fair and reasonable mechanism for dealing with the possible ups and downs in starting salaries arising from each SSS to be conducted every three years.

President, the normal conversion arrangement has been adopted for a long time. Since its inception in 1979, the Standing Commission has been

recommending such a conversion arrangement. For the current SSS, it reaffirms that the normal conversion arrangement should be applied to affected serving civil servants. The staff sides of the four central consultative councils and the representatives of the four service-wide civil service unions also consider the normal conversion arrangement acceptable.

Under the normal conversion arrangement, some serving civil servants may be paid on par with new recruits, or one point higher than their existing salaries. We appreciate that some of the serving civil servants may consider that such an arrangement does not fully take into account their experience and years of service.

I would like to take this opportunity to emphasize once again that we do value the contribution made by serving civil servants. Pay, while important, is not the sole factor reflecting the experience and years of service of serving civil servants. Serving civil servants, while they may be paid on par with or slightly higher than new recruits, would be in a far more advantageous position when it comes to consideration for promotion and acting appointment. Furthermore, civil service fringe benefits, such as the Government's contribution rate for civil service provident fund and, in the case of the disciplined services grades, the allocation of departmental quarters, are linked to years of service. While serving civil servants may be paid on par with new recruits, they are in a more favourable position than new recruits in terms of promotion opportunities and the provision of fringe benefits.

MS EMILY LAU (in Cantonese): *President, the Secretary said that she had received some written comments from members of the public (excluding civil servants). I believe she must have also received comments from the civil servants, for we have also received comments from them as well. The Secretary says that the normal conversion arrangement that should be adopted is to be decided after carefully considering and balancing factors like the interests and concerns of the public at large and those of the affected civil servants. President, the Secretary also says that in accordance with the established practice, serving civil servants will retain their existing, higher pay when the starting salaries are lowered, and their pay will be increased when it is decided that their pay will be adjusted upwards. Secretary, if you are to safeguard the interest of the public, please explain to members of the public whether or not an arrangement can be made under which civil service pay will be lowered when*

civil service starting salaries are lowered? The public will think it is unfair if there is no reduction when civil service pay is lowered while there is an increase when it is adjusted upwards. However, the civil servants now say that their length of service is not counted in any case, this could leave the Secretary in a dilemma where no solution can be found. Can the Secretary explain why under this arrangement the salaries of serving civil servants are not reduced when the civil service starting salaries are adjusted downwards? If the system is such that pay will be increased when it is adjusted upwards and it will be reduced when it is adjusted downwards, then it would be somewhat fairer and the mind of the public will be put at ease and the civil servants will be convinced.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, I would like to thank Ms LAU for this question.

With respect to recruiting civil servants, in general, if we are to recruit people to fill up any vacancies in any rank, we would state clearly in the advertisement what the entry pay point is and after completion of one year's service, if the performance of the recruits is found to be satisfactory, they are entitled to some additional pay point. Such details are disclosed to all interested parties during the recruitment process. In view of this, we consider that people who choose to join the Civil Service will make their decision according to the information given at that time. After they have joined the Civil Service, if the employer takes a unilateral move to reduce their salaries simply because of the findings of a SSS, though this is justified in law, as a matter of reason, we would rather take as much as possible into account the feelings of our civil service colleagues. Because, as a matter of fact, from the very moment they decided to join the Civil Service, they are under the impression that they will get the amount of pay as specified in the recruitment advertisement. It is due to this reason that when the entry pay for a certain rank is adjusted downwards due to the findings of a certain SSS, we would still consider it not proper to revise the salaries of serving civil servants downwards.

However, as Ms LAU has said, if we do this and adjust the pay of all serving civil servants when starting salaries are revised upwards, then this would really make members of the public think that it is not at all fair.

PRESIDENT (in Cantonese): There are 11 Members waiting for their turns to raise supplementary questions. Will those Members who have the chance to

raise their supplementary questions please be as concise as possible so that more Members can raise questions.

MR KWONG CHI-KIN (in Cantonese): *President, the reply given by the Secretary is indeed amazing. She talks about the normal conversion arrangement in which some people's years of service are converted and written off, saying that at most one additional pay point will be given so that there would not be an unsightly situation whereby their pay will be lower than that of the new entrants to the Civil Service. President, we in the Hong Kong Federation of Trade Unions have received complaints from many teachers and one of our affiliated trade unions, the Education Employees General Union, held a press conference to publicly denounce the practice, saying that it was unfair to teachers who joined the profession in the past few years.*

President, we all know that civil servants and employees of subvented organizations will get an incremental point each year and the Secretary has admitted earlier that it is an established practice. Now with the adoption of the normal conversion arrangement, the length of service of the employees is disregarded. The Secretary has said earlier that there are some difficulties and I understand that the Secretary indeed faces some such difficulties.....

PRESIDENT (in Cantonese): What then is your supplementary question?

MR KWONG CHI-KIN (in Cantonese): *President, my supplementary question is: Can the Secretary be fairer? I do not think anyone would understand the Secretary when she talks about the normal conversion arrangement. Can something be done to be fair to those who have joined the Civil Service in recent years? For example, instead of converting one year for one point, can something at least like two years for one point be adopted so that it can be fairer to them?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, I thank Mr KWONG for the supplementary question.

As I have stressed in my main reply, pay is not the sole factor reflecting the experience and years of service of serving civil servants. I have also

mentioned in the main reply that serving civil servants would be in a far more advantageous position when it comes to consideration for promotion and acting appointment because of their years of service.

The question raised by Mr KWONG is whether or not an additional incremental point can be given to civil servants for each two years of service. Actually, this is a question which hinges very much on principle because the principle is: If this is done when the starting salaries are revised upwards, then when the starting salaries are revised downwards, would it mean that for every two pay points revised downwards, there would be a reduction of one pay point for the serving civil servants? When we consider this question, we should strike a balance between what is to be done when salaries are revised upwards and what is to be done when salaries are revised downwards.

DR JOSEPH LEE (in Cantonese): *The Secretary mentions in the second paragraph of the main reply that when the new benchmark salary for each QG is considered, education qualifications would be taken into account. For those grades with recruitment difficulties, the starting salaries of their entry ranks are set at a few points higher than the relevant benchmark. However, the fact as we see it is that in the health services profession, for example, the nurses, physiotherapists, occupational therapists, and so on, first of all, there are difficulties in recruiting nurses; besides, most of the health care professionals are degree holders. But we see that when salaries are revised upwards, this point is not taken into consideration. These grades are still in QG3 instead of QG8, that is, the rate of increase is not commensurate with the qualifications. May I ask the Secretary how this reality can be reflected in your reply?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, I thank Dr LEE for the supplementary question.

When we decide what QG a civil service rank should come under, we would see what the minimum entry qualifications for that particular rank are. What we require are the minimum qualifications. For some ranks, the minimum qualifications required may be a higher diploma. We understand, however, that some of the people who join that rank may already be degree holders or they may possess qualifications higher than that of a degree. However, this cannot be taken into account under our existing system. What

we do is simply to group a particular rank into a QG by considering the minimum qualifications required for duties in that rank. Then when recruitment for that particular rank is carried out — on the subject of recruitment, previously when no freeze was imposed on civil service recruitment, we would as a general rule hold one recruitment exercise every year for each rank when there were vacancies — we would act on the strength of the actual results of the recruitment exercise held every year to determine if any discretion should be exercised. This is because if the recruitment of certain ranks was particularly difficult for a certain year, then discretion might have to be exercised to adjust the starting salary point for these particular ranks upwards for that year. (Appendix 1) However, such a practice takes each particular year into consideration individually, instead of adjusting the starting salary of a particular rank higher across the board.

PRESIDENT (in Cantonese): Dr Joseph LEE, has your supplementary question not been answered?

DR JOSEPH LEE (in Cantonese): *The Secretary has not answered my supplementary question. My supplementary question is about people like nurses who may hold a diploma or even a degree. But why under the existing system can this situation not be truthfully reflected and why has the Government not made any changes?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, President, I was just making an assumption because I do not have any information at hand. Suppose only a graduate diploma from a nursing school instead of a degree is required for the nursing rank, then the nursing rank will come under a QG which is not for university graduates. The applicants may be university graduates and they apply for an opening in the nursing rank, but we will not give the applicants a higher salary because of this reason.

PRESIDENT (in Cantonese): We have spent more than 19 minutes on this question. Now the last supplementary question. Many Members do not have a chance to raise their questions, I think they can follow up through other channels.

MS MARGARET NG (in Cantonese): *President, the Secretary says in the eighth paragraph that under normal circumstances, the salary of serving civil servants will not be lower than that of new entrants to the Civil Service; in the 11th paragraph, the Secretary says that under the normal conversion arrangement, some serving civil servants may be paid on par with new recruits, or slightly higher. We have got some information from the Local Government Counsel Association in which mention is made of some rather special circumstances in the Department of Justice. Owing to the practice which has been in force over the past 10 years in which years of professional experience are counted, there is a situation whereby serving civil servants may get a lower salary than the new recruits. In such circumstances, what kind of special action the Secretary will take to cope with the latest increase in starting salaries?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, I thank Ms NG for this supplementary question.

With respect to government counsels, Ms NG's description is correct. In the past, the usual practice at the Department of Justice is that if someone is employed as a government counsel and if that person has experience as a practising lawyer, then his salary will be revised upwards according to each year of professional experience gained. Such a practice was particularly necessary during the period from 2000 to 2007 because in 2000, the starting salary for government counsels and other related grades was revised downwards by five pay points. During the past two or three years, competition in the legal profession was extremely fierce in the market and as there was a need to recruit lawyers, the Department of Justice has over the past few years adopted the practice of giving an extra incremental point to experienced lawyers joining the service for each year of professional experience gained.

If the proposed new incremental pay points are endorsed by the Establishment Subcommittee and the Finance Committee, it is hoped that they can come into force on 1 August this year. Afterwards, the starting salary for government counsels will be adjusted upwards by five pay points. Against this background, I have discussed with the Secretary for Justice and he has also discussed the issue with his colleagues. Our conclusion is that when the salary of the government counsels is increased by five points starting 1 August 2007, the Government would find itself substantially more competitive than before in the market when it wants to recruiting candidates to fill posts of government

counsels. It is with this consideration in mind that after approval is given to implement the new incremental points from 1 August, the Department of Justice when recruiting government counsels will not give any additional incremental pay point to those who have four years' experience as lawyers. If the person concerned has an experience of five years or more, then one incremental point will be given for each year of experience.

In other words, it is stipulated that those new recruits of government counsels who have four years' experience in the market will not be given any additional pay points. It is because the Government will on 1 August raise the starting salary of government counsels by five points. So those who join the Civil Service as government counsels must have very rich experience as lawyers, that is, five years or more, before they are entitled to extra pay points. In our view, such a practice should be able to address the problem raised by Ms NG earlier.

PRESIDENT (in Cantonese): Now the last oral question.

Military Dock

6. **MR LEE WING-TAT** (in Cantonese): *President, it has been learnt that the overall planning concept of the Central Reclamation Phase III (CRIII) project is to provide leisure facilities for the public along the waterfront promenade in Central, and to enable the public to enjoy the view of the Victoria Harbour. Some 150 m of the waterfront have been reserved in the area of the project for the construction of a military dock for naval vessels of the Hong Kong Garrison of the People's Liberation Army (PLA). In this connection, will the Government inform this Council whether:*

- (a) *it has studied the compatibility of such a military facility with the overall planning concept of the above project; if it has, of the results of the study;*
- (b) *the use of the facilities along the above waterfront promenade by the public in the future have to give way to the operation of the military dock, and whether the view of the Harbour will be blocked by structures of the military dock; if the view will be blocked, of the building height restriction for the site; whether the periphery of the*

military dock will be designated as a closed area; if so, whether the closed area will impede the use of facilities along the waterfront promenade by the public; and

- (c) *it will consider discussing with the PLA afresh the future location of the dock?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, the Hong Kong Special Administrative Region Government (SAR Government) has to leave free 150 m of the eventual permanent waterfront in the plans for the Central and Wan Chai Reclamation at a place close to the Central Barracks for the construction of a military dock in compliance with the Defence Land Agreement signed between the Governments of the People's Republic of China and the United Kingdom in 1994. In July 1994, the Finance Committee of the Legislative Council was briefed on the Agreement by the then Hong Kong Government.

My reply to the three-part question is as follows:

- (a) The military dock, which falls within the scope of the CRIII project, is part and parcel of the Sino-British Defence Land Agreement. According to our planning intention now, the section of 150 m waterfront will be open for public use as part of the Central waterfront promenade when it is not required for military use. The Planning Department is conducting the Urban Design Study for the New Central Harbourfront, which covers, *inter alia*, how to suitably integrate this planning intention.
- (b) The military dock will be put into operation only when it is in military use. It will be open for public use at other times as part of the waterfront promenade. It is planned that a small number of low-rise basic facilities will be provided within the military dock. The view of the Victoria Harbour will not be blocked.
- (c) As mentioned above, the military dock will be constructed in accordance with the 1994 Sino-British Defence Land Agreement. The location of the military dock is clearly shown on the Central District (Extension) Outline Zoning Plan (OZP). The question of discussing with the PLA Hong Kong Garrison afresh does not arise.

MR LEE WING-TAT (in Cantonese): *President, I wish to ask a follow-up on part (b) of the main reply because I am most concerned about whether or not the public using the waterfront promenade in the new Central reclamation area in the future can access it barrier-free and without making a detour. It was mentioned in part (b) of the main reply that a small number of low-rise basic facilities would be provided. What are they? Although the military dock will be put into operation only when it is in military use, will some facilities in the dock, such as the hawsers for anchoring and stabilizing naval vessels to the dock, be incompatible with the waterfront promenade? People jogging there will not wish to have obstacles impeding their way. I thus do not understand what the basic facilities mentioned in part (b) of the main reply are. Moreover, when the dock is required for military use, how can the facilities in use be fully compatible with the waterfront promenade?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): According to our understanding, the area zoned as open space on the Central and Wan Chai OZP takes up 14.63 hectares, which is a vast area. If the dock is used for military purpose in the future, it will only take up about 0.3 hectare, which has minimal impact on the overall layout. This is the first point.

The second point is, as I have stated in the main reply just now, the military dock will be put into operation only when it is in military use. When it is not in military use, it will be fully open for public use.

Mr LEE enquired just now about the facilities in the dock. This is more critical. I have stated just now that there would be a small number of low-rise basic facilities. What exactly are they? They mainly include the reception room, on-duty office, fire pump room and three flights of landing steps. These facilities, used by officers after their vessels have berthed at the dock, will be very small in number and basic and low-rise (one-storey or one-odd storey). At present, however, the format and scale have not been finalized except that the number of such facilities has to be small. As such, the disturbance caused to the public using the promenade can be almost negligible.

MR LEE WING-TAT (in Cantonese): *President, my focus is on an elongated waterfront promenade. By barrier-free access and without the need to make a detour, I mean whether the public, when walking on the promenade, will not*

have to walk inland to make a detour before turning back to the promenade? I do not wish to misunderstand the Secretary's meaning. Did the Secretary mean that the public can walk in a straight line along the waterfront to Wan Chai?

PRESIDENT (in Cantonese): This seems not part of your main question just now.

MR LEE WING-TAT (in Cantonese): *Yes. What I asked just now is whether the public will need to make a detour and whether they can walk along the waterfront promenade barrier-free.*

PRESIDENT (in Cantonese): You cannot ask this in your supplementary question. You can only ask this point as a separate question. Right?

MR LEE WING-TAT (in Cantonese): *You may say so. I will wait for another turn then.*

PRESIDENT (in Cantonese): You can wait for your turn and I hope you will have the chance to put this question.

MR LEE WING-TAT (in Cantonese): *Okay.*

DR YEUNG SUM (in Cantonese): *The Secretary stated in part (c) of the main reply that the location of the military dock is shown on the Central District (Extension) OZP. However, Madam President, that OZP was drawn more than 10 years ago. The garrison is usually considered as a symbol of sovereignty, but I believe, 10 years into the reunification now, we are aware that this is a basic fact and that Hong Kong has been very stable. It is thus public aspiration that the waterfront can be returned to them so that they can enjoy the view at the waterfront. It is also government aspiration that the Central waterfront promenade be developed. Actually, in view of the era and practicality, is there not a real need that discussion on the location of the dock be opened afresh?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I have already stated in the main reply that the Governments of the People's Republic of China and the United Kingdom signed the Defence Land Agreement in 1994 to confirm the need of the garrison. This is an agreement signed between the two countries and based mainly on laws in Hong Kong, that is, the Garrison Law of the Hong Kong Special Administrative Region of the People's Republic of China. The Garrison Law stipulates that Hong Kong has the obligation to support the garrison in performing its duty of defending Hong Kong. Hence, as there is such an agreement specifying this obligation, we hold that there is no need to discuss this matter again.

Moreover, I have also stated just now that we have a consensus that the dock will be fully open for public use at times not in military use. I understand Members' worries in this respect, but I can guarantee that our aspiration can be realized at most of the time.

MISS CHOY SO-YUK (in Cantonese): *President, in the plan that we saw at that time, the area of the dock is off-limits to the public, that is, it is separated by fences and gates. I asked the Government about this and it replied that these gates could be moved away when not in use. Nevertheless, President, I have heard that as this is a military dock, it should have some sensitive and sophisticated facilities or instruments. As such, will the dock be so accessible to the public that they can go to or go through the dock at any time, or that the gates can be opened overnight so that the public can use it? I thus wish the Secretary to confirm with us whether, just as the Secretary has said, the dock will only have some simple facilities but not sensitive facilities in the future, and thereby can be fully open to the public when it is not in military use?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, what I have to say is simple. There is not such thing as mentioned by Miss CHOY So-yuk just now. I do not know where she got hold of the plan that she displayed. As for the sensitive installations, I do not know where she saw it. President, I did not mention this at all in my main reply. I do not know where Miss CHOY got hold of such information and how she arrived at the conclusion. However, as for my part, I have nothing to add in relation to my main reply.

MISS CHOY SO-YUK (in Cantonese): *President, I was just asking the Secretary whether he can tell us if there are such sensitive facilities.*

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

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I have nothing more to add.

MR LEUNG KWOK-HUNG (in Cantonese): *Secretary, good afternoon. It is so good to see you here and I do not need to look for you at your home. Let me come back to the question now.*

PRESIDENT (in Cantonese): That is right. That is right.

MR LEUNG KWOK-HUNG (in Cantonese): *I noted in the main reply that an agreement was signed on this in 1994 and the SAR Government is only executing this agreement now. The Administration, when designing the promenade, already knew about this agreement, right? Then, why did it still have to include a military facility in the area of the promenade? Am I correct? The army itself is an instrument of the State. It generally will remind us of war and slaughtering, given particularly the special history of our country. I really wish to ask the Secretary why, being aware of the existence of the military facility issue, did he still include it in the design of the promenade, thereby reminding the public going there to enjoy their leisure time of a symbol of massacre or slaughtering? How did the Administration make its consideration?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Mr LEUNG Kwok-hung's supplementary question covered many matters which are irrelevant to the main reply. I will now give a reply only to the facts he has mentioned.

President, a military dock is included in the waterfront promenade. This is a fact. I have to consider, geographically speaking, the location of the

military dock because it is part of the promenade. Thus, we mainly have to see how to proceed with the planning so that the two can co-exist. Particularly when knowing that the so-called military dock will not be in military use most of the time, I hold that there is considerable flexibility for us to determine how we can realize the planning intention. Thus, one of the functions of the current Urban Design Study for the New Central Harbourfront is to realize this planning intention.

MR LEUNG KWOK-HUNG (in Cantonese): *President, he did not reply my supplementary question. The agreement signed in 1994 is something that cannot be changed for it is an obligation, but the waterfront promenade was designed only after the reunification. My question is: Why did he have to include the military dock in the promenade, which came about much later, to remind the public of massacre, slaughtering and war?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I have nothing more to add. I have already sufficiently answered this supplementary question just now.

DR FERNANDO CHEUNG (in Cantonese): *Basically, there must be a link between the PLA dock and the promenade. May I ask when the PLA dock is in military use, whether or not there will be a certain period of time during which the public will be delayed in using the promenade or be disturbed? If so, what will be the arrangement?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Just as my reply to the first supplementary question just now, the waterfront promenade is actually very wide and vast. It will not be occupied entirely by the military dock. The military dock only accounts for about 2%, which is, in fact, a very small proportion. There is therefore no question of the public having to make a detour in using the waterfront promenade. Nevertheless, when the dock is in military use, the adjacent area will certainly be off-limits as it has to be used for another purpose. I repeat, the use of the promenade by the general public will not be affected by the existence of the military dock.

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

MR LEE WING-TAT (in Cantonese): *President, I only wish to ask, whether, on normal days, the public can go there barrier-free and without the need to make a detour. I mean, as the dock will occupy the area along the waterfront and some buildings may be found there as well, whether, on normal days when the dock is not in military use, the public have to go inland and walk around buildings — or should I say, go into the buildings — and then go out again to the promenade? Or, just as the Secretary said, the public do not need to make a detour and can walk along the dock in a straight line? President, I only wish to ask about this point. Which is the case?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Our idea is to let the public walk along in a straight line when the dock is not in military use on normal days.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Use of Premises of Closed Primary Schools

7. **MR ABRAHAM SHEK**: *President, according to the paper provided by the Administration for the meeting of the Panel on Education on 14 May 2007, up to the 2007-2008 school year, 54 primary schools have ceased/will cease operation under the consolidation policy, among which 33 school premises have already been/will be returned to the Government for disposal. In this connection, will the Government inform this Council of the location, size, proposed land use and estimated value of the land plots in respect of the above 33 school premises, and which of these land plots will be disposed of, temporarily allocated or leased out through short-term tenancies?*

SECRETARY FOR HOUSING, PLANNING AND LANDS: President, from the 2004-2005 school year to the 2007-2008 school year, 33 schools have ceased

or will cease operation under the consolidation policy, and the school premises concerned have been or will be returned to the Government for disposal. The detailed information requested in the question (except the estimated value of the land plots) is set out in Annex. No information on premium valuation is provided in the Annex, as the Government has not conducted such valuation for the 33 sites.

Annex

Thirty-three Schools which have been returned/will be returned
to the Government for Disposal
from the 2004-2005 school year to the 2007-2008 school year

Ceased operation in the 2004-2005 school year

<i>No.</i>	<i>District</i>	<i>Address</i>	<i>Site Area (sq m)#</i>	<i>Zoning</i>	<i>Land Status</i>	<i>Land Use</i>
1.	North	Ma Cho Lung Village, Sheung Shui, New Territories	2 700	Government, Institution or Community (G/IC)	Government land and private lot	- Future use of the Government land has not yet been determined. - The remaining area is private lot.
2.	Sai Kung	Leung Shuen Bay, Sai Kung, New Territories	1 900	Not Applicable (N.A.)	Government land	- Future use of the Government land has not yet been determined.
3.	Tai Po	P.O. Box 13, Tai Po, New Territories, Lam Tsuen, Tai Po, New Territories	1 300	G/IC	Private lot	-
4.	Tai Po	Chung Sum Wai, Tai Hang Tsuen, Tai Po, New Territories	1 600	Village (V)	Private lot	-
5.	Tai Po	Kau Lung Hang Village, Tai Po, New Territories	1 300	G/IC	Private lot	-

Ceased operation in the 2005-2006 school year

<i>No.</i>	<i>District</i>	<i>Address</i>	<i>Site Area (sq m)#</i>	<i>Zoning</i>	<i>Land Status</i>	<i>Land Use</i>
6.	Islands	Lo So Shing Village, Lamma Island	1 000	G/IC	Government land	- Application for using the site for a Youth and Elderly Centre has been received. Pending submission of further information from the applicant.
7.	North	Lo Wu Village, Ta Ku Ling, New Territories	2 200	N.A.	Government land	- Future use of the site has not yet been determined.
8.	North	Ng Uk Village, Sheung Shui, New Territories	3 100	G/IC	Government land	- Proposal for an integrated community health and primary care centre is being processed.
9.	Tuen Mun	16 Miles Castle Peak Road, New Territories	1 800	G/IC	Government land	- Application to use the site for a community centre is being processed.
10.	Yuen Long	Tai Wai Village, Shap Pat Heung, Yuen Long	1 100	V	Government land and private lot	- Future use of the Government land has not yet been determined. - The remaining area is private lot.
11.	Yuen Long	Ha Tsuen Heung, Pak Nai, Yuen Long	1 600	Coastal Protection Area	Government land	- Application for using the site for an Outdoor Learning Centre has been received. Pending submission of further information from the applicant.

<i>No.</i>	<i>District</i>	<i>Address</i>	<i>Site Area (sq m)#</i>	<i>Zoning</i>	<i>Land Status</i>	<i>Land Use</i>
12.	Yuen Long	Fraser Village, Tai Tong Road, Yuen Long	1 300	V	Government land	- Application for using the site as an office has been received. Pending submission of further information from the applicant.

Ceased operation in the 2006-2007 school year

<i>No.</i>	<i>District</i>	<i>Address</i>	<i>Site Area (sq m)#</i>	<i>Zoning</i>	<i>Land Status</i>	<i>Land Use</i>
13.	Islands	9 Chi Yan Lane, Peng Chau	3 400	G/IC	Government land and private lot	- Future use of the Government land has not yet been determined. - The remaining area is private lot.
14.	North	Ku Tung, Ho Sheung Heung Road, Sheung Shui, New Territories	2 200	G/IC	Private lot	-
15.	North	Tam Shui Hang Village, Sha Tau Kok, New Territories	900	N.A.	Government land	- Future use of the site has not yet been determined.
16.	North	Ping Yeung Village, Ta Kwu Ling, New Territories	16 100	G/IC	Government land	- Future use of the site has not yet been determined.
17.	North	Tsung Chai Ling, Muk Wu Tsuen, Ta Kwu Ling, New Territories	2 700	N.A.	Government land	- Future use of the site has not yet been determined.

<i>No.</i>	<i>District</i>	<i>Address</i>	<i>Site Area (sq m)#</i>	<i>Zoning</i>	<i>Land Status</i>	<i>Land Use</i>
18.	North	Wah Shan Village, Sheung Shui, New Territories	13 600	G/IC	Government land	- Application for using the site for a recreational centre and school for environment protection education has been received and is being processed.
19.	Tuen Mun	Chung Uk Tsuen, Tuen Mun, New Territories	2 400	V	Private lot	-
20.	Tuen Mun	21.5 Milestone, Lam Tei, Tuen Mun, New Territories	3 200	Green Belt	Government land and private lot	- Application for using the Government land as a community centre has been received and is being processed. - The remaining area is private lot.
21.	Tuen Mun	254 Tuen Tsz Wai, Tuen Mun, New Territories	4 500	G/IC	Government land	- Future use of the site has not yet been determined.
22.	Yuen Long	Mai Po Village, San Tin, Yuen Long	1 000	V	Government land	- Future use of the site has not yet been determined.
23.	Yuen Long	Wang Chau Village, Yuen Long, New Territories	1 600	V	Private lot	-
24.	Yuen Long	Shung Ching San Tsuen, Tai Shu Ha West Road, Yuen Long	3 600	V	Government land	- Application for using the site as a district sports and recreation centre has been received and is being processed.

<i>No.</i>	<i>District</i>	<i>Address</i>	<i>Site Area (sq m)#</i>	<i>Zoning</i>	<i>Land Status</i>	<i>Land Use</i>
25.	Yuen Long	Shung Ching San Tsuen, Yuen Long	6 300	Residential (D)	Government land	- The Administration is exploring the feasibility of disposing of the site.
26.	Yuen Long	Nam Pin Wai, Yuen Long	400	V	Government land and private Lot	- Application for using the site as a district sport and recreation centre has been received and is being processed
27.	Yuen Long	Lam Hau Ling, Yuen Long, New Territories	3 100	V	Held under Short Term Tenancy (STT)	- Approval has been given for using the site as a Social Service Centre under STT.
28.	Yuen Long	Yau Tam Mei Village, Yuen Long, New Territories	1 800	Recreation	Government land	- Application for using the site for office use has been received and is being processed.

Scheduled to cease operation in the 2007-2008 school year

<i>No.</i>	<i>District</i>	<i>Address</i>	<i>Site Area (sq m)#</i>	<i>Zoning</i>	<i>Land Status</i>	<i>Land Use</i>
29.	North	Shung Him Tong Village, Fanling, New Territories	5 300	G/IC	Private lot	- School still in operation
30.	Tai Po	9-11, Shung Tak Street, Tai Po, Tai Po Market, New Territories	300	Commercial/ Residential	Private lot	- School still in operation

<i>No.</i>	<i>District</i>	<i>Address</i>	<i>Site Area (sq m)#</i>	<i>Zoning</i>	<i>Land Status</i>	<i>Land Use</i>
31.	Yuen Long	Fung Hing Li (San Wai), Yuen Long	2 000	V	Private lot	- School still in operation
32.	Yuen Long	Tong Yan San Tsuen, Ping Shan, Yuen Long	3 800	Residential (B)1	Government land and private lot	- School still in operation
33.	Yuen Long	Tan Kwai Tsuen, Hung Shui Kiu, Yuen Long	2 100	G/IC	Private lot	- School still in operation

Note

Site areas quoted are based on data provided by the Planning Department in 2005, and are approximate figures only (subject to survey).

Under-enrolment of Primary Schools

8. **DR YEUNG SUM** (in Chinese): *President, the number of babies born in Hong Kong in 2003 was the lowest in recent years. As these babies will start primary school in 2008, some primary schools may be forced to cease operation due to under-enrolment. In this connection, will the Government inform this Council:*

- (a) *of the estimated numbers of students, places and surplus places in Primary One (P1), as well as the supply and demand of P1 classes, in each of the three school years starting from 2008-2009; and*
- (b) *whether it will consider relaxing the existing requirement of a minimum intake of 23 students for primary schools to operate P1 classes; if so, of the details; if not, the reasons for that?*

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

- (a) We will have to make reference to the updated population projections to be released by the Census and Statistics Department later this year to update our assessment on the number of P1

students territory-wide in the three school years starting from 2008-2009, and with that assessment come up with more meaningful projections on the comparison between demand and supply at the P1 level. Making reference solely to the birth figures recorded by the Government, we note that the number of babies born in 2003 is less than that in 2002 by some 1 200 and this cohort of babies will reach the minimal age for admission to primary schools (that is, five years and eight months) until the 2009-2010 school year. We also wish to point out that, notwithstanding the availability of updated P1 student projections later, it would be difficult for us to predict the number of schools that would be under-enrolled at P1 level each year. This is because the number of under-enrolled schools would depend on variables such as demographic movements, parental choices, class structure and development plan of individual schools.

- (b) Taking into account the latest population projections as well as the school sector's views and concerns, the Education and Manpower Bureau will review the arrangements for operation of P1 classes in the 2008-2009 school year and thereafter. For the time being, we are not in a position to offer specific details.

KCRC Signalling Systems

9. **MR ANDREW CHENG** (in Chinese): *President, regarding the signalling systems of the railways under the Kowloon-Canton Railway Corporation (KCRC), will the Government inform this Council whether it knows:*

- (a) *the names, places of manufacture and costs, and so on, of the signalling systems currently used by West Rail and Ma On Shan (MOS) Rail;*
- (b) *the respective numbers of signalling failures of West Rail and MOS Rail each year which resulted in disruptions in train service since their commissioning;*
- (c) *whether the KCRC has assessed if there is any possibility that signalling failures at certain sections of East Rail, West Rail or MOS Rail may result in a complete suspension of the train service of the*

three rail lines; if it has and the assessment result is in the affirmative, of the measures taken by the KCRC to prevent this from happening;

- (d) *whether the KCRC has requested the Hong Kong Observatory to regularly provide data on lightning strikes along East Rail, West Rail and MOS Rail, so that measures can be adopted to minimize the impact of lightning strikes on the signalling systems; and*
- (e) *whether the KCRC plans to unify the signalling systems currently used by East Rail, MOS Rail and West Rail, after the commissioning of Kowloon Southern Link?*

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

- (a) The signalling systems currently used in West Rail and MOS Rail is called Seltrac. These systems are provided by a signalling system company in Canada. The cost of the signalling system for West Rail is about \$400 million, and the one for MOS Rail costs about \$200 million.
- (b) The respective number of signalling failure incidents leading to service delay of eight minutes or more in West Rail and MOS Rail since their commissioning is as follows:

<i>Rail/Year</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>
West Rail*	0	20	14	12
MOS Rail**	Not Applicable	0	9	2

* West Rail was opened on 20 December 2003

** MOS Rail was opened on 21 December 2004

- (c) At present, the central signalling control systems for East Rail, MOS Rail and West Rail are supported by two sets of computer systems. The first set controls normal operations while the second set is constantly in standby mode. If the operating computer system fails to function, the standby computer system would automatically replace the failed system immediately to enable the

signalling system to continue to operate. Moreover, the current signalling systems for East Rail, MOS Rail and West Rail are designed to allow bi-directional operation of trains on single tracks. In other words, if signalling failure occurs on one side of the rail track, train services on both directions can still be safely maintained through bi-directional operation of trains on the unaffected track under the signalling system. The signalling system also allows manual operation. As such, although train services may be affected (say in terms of extension in journey time or reduction in train frequency) by signalling failure, the probability of a total suspension of train service of a particular railway line is remote.

- (d) The KCRC's railway networks are equipped with lightning protection devices to enable normal train operations under adverse weather conditions. The design of these devices commensurates with international standards. The lightning protection system used by East Rail, West Rail and MOS Rail is common to other railway systems worldwide.

At present, the Hong Kong Observatory publicizes information regarding thunderstorm and record of lightning location. The KCRC has not requested additional information from the Hong Kong Observatory.

- (e) The signalling systems adopted by East Rail, MOS Rail and West Rail are all Automated Train Control Systems which perform the same functions. Since the signalling systems of the three railway lines have been procured by the KCRC during different periods of time or from different manufacturers, they cannot be interconnected. Upon the commissioning of the Kowloon Southern Link, the section between Nam Cheong Station and Hung Hom Station will become part of West Rail, and thus will be under the control of West Rail's signalling system. East Rail and MOS Rail will continue to use their respective existing signalling systems.

Theft of Metal Items in Public Places

10. **MS LI FUNG-YING** (in Chinese): *President, it has been reported that, from time to time in recent years, metal items such as roadside railings, gutter*

covers and cables in private buildings were stolen and sold for money. In this connection, will the Government inform this Council:

- (a) of the number of cases involving the theft of the above metal items in the past three years, the location, number of items, total value and penalty involved in each case, together with a breakdown by the types of items stolen; as well as the number of accidents and casualties caused to the public in such cases;*
- (b) of the specific measures to prevent the theft of such metal items in public places, whether it will further enhance existing measures or adopt new measures in this respect; if it will, of the specific details, as well as the manpower and costs involved;*
- (c) how the Government, power companies, tenants and landlords can make concerted efforts to prevent the theft of electrical installations in private buildings, to avoid posing danger to the tenants concerned, and of the responsibilities to be borne by individual parties;*
- (d) of the number of cases detected by the police in the past three years, which involved recyclable waste collectors receiving the above loots, as well as the maximum, minimum and general penalties imposed; and*
- (e) of the measures to prevent recyclable waste collectors from inadvertently receiving the above loots?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) The Administration has not maintained the overall statistics of the cases concerned, and therefore cannot provide details in respect of such cases.
- (b) Having regard to the prevailing district crime situations, the police will take commensurate actions to combat the offences. These include enhancing patrols by both uniform and plain-clothes police officers at crime black spots, and on the basis of intelligence available, conducting ambushed arrests of the culprits in high risks places. For metal items such as railings and gutter covers in public

places, the relevant departments take various measures in accordance with the applicable needs and circumstances — for example, regular patrols, planting the bases of railings into steel-reinforced concrete, engraving identification marks onto metallic manhole covers, considering the use of other materials (such as plastics or concrete) to substitute metallic materials, and strengthening the liaison with the police regarding theft black spots. The Administration has not compiled statistics regarding the resources involved for these measures.

- (c) As the owners of the electrical installations of buildings, landlords and occupants are responsible for the safety of the electrical installations of their buildings. As with other security issues, landlords and occupants should ensure the security of their buildings in accordance with the guidance given by the police, in order to prevent the theft and interference of the electrical installations in their buildings and the resultant dangers. Power companies and the Electrical and Mechanical Services Department will also notify the landlords and occupants for follow-up actions if they notice any damage to installations during their inspection of electrical systems and electrical installations inside buildings.
- (d) The police do not maintain statistics on cases involving waste collectors receiving metallic stolen goods.
- (e) We understand that, generally, waste collectors collect materials for recycling from familiar sources, and should not have difficulties in recognizing items of dubious origin. The police and the Environmental Protection Department will from time to time advise the recycling industry not to accept items of dubious origin or those suspected to have been obtained from theft, and to report suspicious cases to the police. The Crime Prevention Offices of different police districts also provide advice to the relevant industries from time to time having regard to the latest district crime situation.

Unauthorized Shop Extension

11. **MR LEE WING-TAT** (in Chinese): *President, regarding the problems of obstruction and noise nuisance caused by unauthorized extension of shops in Kwai Fong Circuit, will the Government inform this Council:*

- (a) *in each of the past five years, of the number of complaints received by the Government about the above problems, broken down by the subject of such complaints; what clearance operations the Government had carried out regarding such complaints, and whether it has assessed the effectiveness of such operations; if it has, of the results of the assessment; and*
- (b) *given that the Government had successfully curbed unauthorized extension of shops in Lo Tak Court of Tsuen Wan, whether the Government will make reference to the relevant experience and measures adopted in resolving the above problems in Kwai Fong Circuit?*

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

- (a) At present, many government departments take enforcement actions against shops for unauthorized extension of business and illegal hawking. The Food and Environmental Hygiene Department (FEHD) mainly takes action against shops hawking illegally in the public area or extending its business without authorization, thus obstructing scavenging services, or food premises carrying on food business illegally by setting out tables and chairs beyond the confines of their premises. For cases involving unauthorized occupation of Government land of a permanent nature, such as building a terrace or installing a curtain outside the shops without authorization, they will be referred to the relevant departments (for example, the Buildings Department and the Lands Department) for appropriate actions. If circumstances warrant, the FEHD will request the District Officer concerned to co-ordinate the efforts of various departments in tackling the problems.

Regarding those licensed food premises that repeatedly carry on business illegally outside the confines of their premises, apart from instituting prosecution under section 34C of the Food Business Regulation (Cap. 132 sub. leg.), the FEHD may also suspend or cancel the licences of those premises which have accumulated a prescribed number of demerit points under the Demerit Points

System implemented by the Department. If the shops have obstructed scavenging services by hawking illegally or extending its business without authorization, the FEHD may prosecute under section 22 of the Public Health and Municipal Services Ordinance (Cap. 132). Besides, the FEHD and other concerned departments may also act under section 4A of the Summary Offences Ordinance (Cap. 228) to prosecute shops for unauthorized extension of business.

The numbers of complaints received by the FEHD in each of the past five years against obstruction caused by illegal hawking or unauthorized extension of business by shops in Kwai Fong Circuit (that is, the area surrounded by Wing Fong Road, Ko Fong Street and Hing Fong Road) are as follows:

<i>Year</i>	<i>No. of Complaints</i>
2002	59
2003	150
2004	98
2005	94
2006	103

The FEHD has been very concerned about the unauthorized extension of business in public area by food premises and illegal hawking by shops in Kwai Fong Circuit. Besides making routine visits, it also conducts blitz operations to prosecute offenders, or sends officers to inspect the location until late night to enhance the effectiveness of enforcement actions.

Kwai Fong Circuit is one of the places in Kwai Tsing District in which the FEHD has taken enforcement actions most frequently. Between January 2006 and March 2007, the FEHD took more than 570 enforcement actions in the area of Kwai Fong Circuit, resulting in over 370 prosecutions against shops for breaches of the law and the confiscation of over 60 batches of goods. These enforcement actions helped stop illegal hawking by shops in Kwai Fong Circuit. The FEHD will review the effectiveness of enforcement actions from time to time and adjust the strength of the actions when necessary and resources permit.

- (b) Lo Tak Court of Tsuen Wan is located at the bustling urban centre with a lot of shops and heavy pedestrian flow. In the mid-'90s, in order to tackle the serious problem of unauthorized extension of business and to curb the illegal cooked food hawking activities, the former Regional Services Department and the police launched a special operation to prosecute the persons-in-charge of the shops that had breached the law and the unlicensed hawkers conducting on-street trading there, and confiscated their paraphernalia. After a series of blitz operations, the situation at Lo Tak Court of Tsuen Wan gradually improved. The FEHD is currently adopting a similar enforcement strategy against the situation in Kwai Fong Circuit. However, every case has its unique characteristics. We will continue to closely monitor the situation there and adopt suitable strategies accordingly in the light of the circumstances.

Abuse of Slimming Products

12. **MR JASPER TSANG** (in Chinese): *President, it has been reported that the data of the accident and emergency departments of six hospitals under the Hospital Authority showed that from July 2005 to the end of last year, there were altogether 12 poisoning cases relating to slimming medication, and the slimming medication involved in three of such cases had been purchased on the Internet. The Administration has also indicated that it will request the medication supplier to delete the relevant information from the Internet if there is a breach of regulations. In this connection, will the Government inform this Council:*

- (a) *given that some slimming products on the market may have side effects although they do not contain Chinese or Western medicine, or any illegal or harmful substances, and even though no false information is given in their trade descriptions and labels, the possible side effects are not stated clearly, of the existing measures taken by the Government to monitor the registration, contents of the labels, advertisements and sale of such products;*
- (b) *of the number of times the Government had requested persons-in-charge of auction websites to delete from their websites information on problematic slimming products in the past three years; whether it has examined if it is illegal for them to reject such*

requests; if it has, of the examination results; if it is illegal, of the number of relevant prosecutions; if it is not illegal, how the Government follows up cases in which such requests are rejected; and

- (c) *how it steps up publicity and education to inform the public of the hazards of abusing slimming products?*

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

- (a) In general, slimming products are not classified as pharmaceutical products and no registration is required. However, if slimming products are adulterated with Western drug ingredient(s) such as sibutramine and phentermine, they must be registered before sale under the Pharmacy and Poisons Ordinance (PPO). Under the PPO, the labels of the products must contain such particulars as its ingredients and the quantity thereof; the name and address of the manufacturer; and the pharmaceutical registration number. Sibutramine is classified as Part I poison while phentermine falls within the classification of dangerous drugs. All slimming products containing these ingredients must be supplied or prescribed by medical practitioners and obtained from a pharmacy under the supervision of a pharmacist. Medical practitioners and pharmacists will advise patients on the usage, precautions and side effects of these drugs where appropriate so as to ensure their safe and effective use. Any person who unlawfully sells a Part I poison is liable, upon conviction, to a maximum fine of \$100,000 and imprisonment for two years. Any person who unlawfully supplies a dangerous drug is liable, upon conviction on indictment, to a maximum fine of \$100,000 and imprisonment for 15 years. Advertisements published in Hong Kong are required to comply with the existing legislation such as the Undesirable Medical Advertisements Ordinance and the Trade Descriptions Ordinance. Under the Public Health and Municipal Services Ordinance, slimming products which are for oral administration and do not contain any Chinese or Western drug ingredient(s) must be fit for human consumption.

- (b) Drugs (including slimming products adulterated with Western drug ingredient(s)) being sold at local auction websites are also subject to the regulation of the PPO. For drugs manufactured overseas, application for an import licence is required under the Import and Export Ordinance before their import into Hong Kong. The Department of Health (DH) monitors auction websites regularly. When the DH finds any Part I poisons or slimming products known to be adulterated with Western drug ingredient(s) are being listed for auction on auction websites, it will immediately require the websites to delete the information about such products. Over the past three years, the DH has, on 20 occasions, required the persons-in-charge of local Internet auction websites to delete information about slimming products adulterated with Western drug ingredient(s). No person-in-charge of website has ever refused to do so.
- (c) The DH has stepped up random testing of slimming products and conducts investigations into cases referred by the public or the Hospital Authority. For slimming products which are found adulterated with Western drug ingredient(s), the DH will announce the details, advise the public not to use the product and take enforcement actions.

In addition, the Hong Kong Poison Control Network co-ordinated by the DH was launched on 21 April 2007. Through this network, we make regular public announcements on poisoning cases, including those caused by slimming products, with a view to alerting the public and reducing poisoning incidents.

To promote positive health values, the DH advises the public to maintain a suitable body weight through balanced diet and adequate exercise. An excessive loss of body weight may cause problems such as osteoporosis, reduction in immunity and malnutrition. These messages are communicated to the public by the DH through announcements of public interest on television and radio, pamphlets, posters, website (<www.chcu.gov.hk>) and a 24-hour Health Education Hotline (2833 0111).

Air Pollution Caused by Vessel Smoke

13. **MR JAMES TO** (in Chinese): *President, in reply to my question in December last year, the Government advised that the three pieces of subsidiary*

legislation to be made under the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) were expected to be published in the Gazette for tabling in the Legislative Council in the first half of this year, and that the Marine Department had been conducting spot checks to monitor excessive emissions of smoke from vessels. However, the Government had not conducted a study on the extent of air pollution caused by the operation of Kwai Chung Container Terminals. In this connection, will the Government inform this Council:

- (a) of the latest progress in the enactment of the above subsidiary legislation;*
- (b) of the number of spot checks conducted by the Marine Department each month and the number of cases in which the owners concerned were convicted for excessive smoke emissions by their vessels in the past three years, with a breakdown of the convicted cases by the amount of fines and offences;*
- (c) whether, before such subsidiary legislation is enacted, the Government will consider implementing tax concessions or other concessionary measures to encourage vessel owners to use cleaner fuel;*
- (d) whether the Government will consider providing onshore electricity supply in the smaller cargo working areas, such as the New Yau Ma Tei Public Cargo Working Area, to encourage vessels to switch to using onshore electricity while berthing, with a view to reducing air pollution caused by vessels; and*
- (e) whether it will consider conducting a study on the extent of air pollution caused by the operation of Kwai Chung Container Terminals?*

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

- (a) The proposed Merchant Shipping (Prevention of Air Pollution) Regulation for the implementation in Hong Kong of Annex VI to the

"International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto" (MARPOL) has reached the final stage of drafting. We expect to table this regulation at the Legislative Council in July this year.

The above regulation will, among other things, specify the requirements for survey and certification. In this connection, amendments to the Merchant Shipping (Prevention and Control of Pollution) (Fees) Regulation are required to specify the fees for such services. Submission of this amendment regulation to the Executive Council can only take place after the Merchant Shipping (Prevention of Air Pollution) Regulation is published in the Gazette. We expect to table the amendment regulation at the Legislative Council later this year.

Moreover, we proposed in February 2006 to amend the Merchant Shipping (Prevention of Oil Pollution) Regulation to implement the amendments to MARPOL Annex I, and have consulted the Economic Services Panel on this legislative proposal. Nevertheless, while the regulation is being drafted, the International Maritime Organization (IMO) has adopted additional amendments to MARPOL Annex I; some other amendments have also come into force internationally after a sufficient number of convention countries have ratified such amendments. In this connection, we have to incorporate the relevant updates on the convention into the Merchant Shipping (Prevention of Oil Pollution) Regulation. Once the new legislative proposal is ready, we shall consult the Economic Services Panel again.

- (b) Section 50(1) of the Shipping and Port Control Ordinance stipulates that no vessel in the waters of Hong Kong shall emit smoke in such quantity as to be a nuisance.

The number of inspections conducted by the Marine Department on smoke emissions by vessels in the past three years is set out as follows:

	2004	2005	2006
January	1	1	2
February	1	4	0
March	1	1	0
April	0	0	4
May	3	0	3
June	2	1	3
July	1	0	7
August	3	2	13
September	3	0	6
October	2	1	3
November	3	1	11
December	1	0	6
Total	21	11	58

In 2004, there was one conviction against a breach of section 50(1) of the Shipping and Port Control Ordinance, and the fine was \$2,500. In 2006, there were seven convictions. Three cases were subject to a fine of \$1,000 each, and the fines for the other four cases were \$1,500, \$3,000, \$3,500 and \$6,000 respectively.

- (c) Any proposal on tax concessions or other concessionary measures would require a detailed study of their effectiveness and their financial implications for the Government. Meanwhile, we would focus on the preparation of the legislation, and have no plan to redeploy resources for the study of other concessionary measures.
- (d) Among container ports, at present only one designated berth at the Port of Los Angeles provides shore power. A number of complementary measures are required before cargo vessels can switch off their engines and switch to shore power supply after berthing. These include shore power facilities on board and the power supply systems on shore and at the terminals. There is yet to be an internationally-recognized standard for shore power supply and facilities on board for the shipping industry. As such, we do not consider it practicable to provide shore power supply in public cargo working area or other berthing facilities.
- (e) The Environmental Protection Department compiles a territory-wide inventory of air pollutants emitted in Hong Kong on a yearly basis, including the pollutants emitted from ships. Unless otherwise

specified for specific circumstances, the abovementioned Merchant Shipping (Prevention of Air Pollution) Regulation will also apply to all ships in Hong Kong waters, including those berthed in container terminals. The Government has no plan to conduct separate air pollution studies specific to the operation of the container terminals.

Use of Income from Private Consultation Service of Medicine Faculties

14. **DR KWOK KA-KI** (in Chinese): *President, regarding the reply by the Secretary for Education and Manpower to my question at the Legislative Council meeting on 18 April this year on the provision of private consultation service by the Faculties of Medicine of the University of Hong Kong (HKU) and The Chinese University of Hong Kong (CUHK), will the Government provide, in table form, this Council with the following information on the use of the income generated from the provision of private consultation service by various departments under the above Faculties of Medicine in the past five financial years:*

- (a) *in relation to academic researches, of the names of the relevant research projects, the amounts of money involved and names of the teaching staff in charge;*
- (b) *in relation to attending overseas seminars, of the names and venues of the seminars concerned, the amounts of subsidies, the names of the attending teaching staff, as well as whether subsidies were granted to the accompanying personnel, including family members of the teaching staff; if so, of the amounts of such subsidies; and*
- (c) *in relation to other professional development purposes, of the relevant purposes and amounts involved?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): President, all institutions funded by the University Grants Committee (UGC), including the HKU and CUHK, are autonomous statutory bodies governed by their respective ordinances. They enjoy autonomy in the management of their internal affairs and finance, including the use of income generated from the provision of private consultation service. For this reason, the Administration and the UGC do not possess information on the use of income generated from the provision of private consultation service by various departments under the

Faculties of Medicine of the HKU and CUHK. On the specific issues raised, the UGC has obtained information from the HKU and CUHK which is set out in the ensuing paragraphs.

Both the HKU and CUHK advised that income from private consultation service is credited to the respective departmental/unit fund accounts of the Faculty of Medicine. These accounts have many different sources of income, including private donations for non-specified purposes and income from consultancies. Given that the source of income would not be identified at the time of disbursement from the departmental/unit fund accounts, the HKU and CUHK are unable to distinguish between research projects, overseas seminars and professional development projects that are financed by income generated from private consultation service and those funded by other income sources. For this reason, the two universities are unable to provide detailed information on the individual research projects, overseas seminars attended and professional development projects that are funded by income generated from private consultation service.

That said, based on the Faculty of Medicine's overall expenditure on the abovementioned items as a percentage of the total income received by the respective department/unit fund accounts, the HKU estimated that the pro-rated expenditure on research projects, attendance at overseas seminars and professional development purposes (including purchase of equipment, books and journals for departmental research, fees for attending training courses, and so on) that are funded by income generated from the provision of private consultation service in the past five years is around \$115.7 million. The breakdown is as follows:

<i>HKU</i>	<i>2001-2002</i> (\$)	<i>2002-2003</i> (\$)	<i>2003-2004</i> (\$)	<i>2004-2005</i> (\$)	<i>2005-2006</i> (\$)	<i>Total:</i> (\$)
Academic Research Projects	13,685,000	26,920,000	17,578,000	18,446,000	23,510,000	100,139,000
Attending Overseas Seminars	2,517,000	2,261,000	2,087,000	2,580,000	3,034,000	12,479,000
Other Professional Development Purposes	451,000	632,000	585,000	743,000	713,000	3,124,000
Total:	16,653,000	29,813,000	20,250,000	21,769,000	27,257,000	115,742,000

All figures are rounded to the nearest thousand.

Regarding CUHK, over \$150 million of the departmental/unit income generated from the provision of private consultation service had been used for carrying out research projects, attending seminars/conferences and for other professional development purposes (including provision of professional development and training courses for staff, and purchase of equipment, books, and journals) in the past five years. Details are tabulated as follows:

<i>CUHK</i>	<i>2001-2002</i> (\$)	<i>2002-2003</i> (\$)	<i>2003-2004</i> (\$)	<i>2004-2005</i> (\$)	<i>2005-2006</i> (\$)	<i>Total:</i> (\$)
Departmental/ unit Income generated from private consultation service	29,761,000	32,824,000	24,552,000	30,402,000	35,321,000	152,860,000

On attendance of overseas seminars, the HKU and CUHK advised that their established policies do not allow the use of universities funds (including income from private consultation service) to support family members of staff to attend these seminars. If there is more than one staff member attending the same seminar, all members will be considered as formal attendees of the seminar rather than "accompanying personnel".

Technology Crimes

15. **MR SIN CHUNG-KAI** (in Chinese): *President, regarding Internet or computer-related crimes (hereinafter as "technology crimes"), will the Government inform this Council:*

- (a) *whether it has studied the reasons for the upward trend in the number of technology crimes in recent years; if it has, of the results of the study and the measures to curb such a trend; if not, the reasons for that;*
- (b) *of the number of reported cases and detection rate of technology crimes in the past three years; how this detection rate compares to those of other types of crimes, and the relevant reasons therefor;*

- (c) *of the number of law-enforcement officers responsible for investigating technology crimes, their turnover rate in the past three years, and whether it has assessed the impact of manpower in this respect on the detection rate;*
- (d) *of the number of law-enforcement officers who have participated in the Computer Forensics Certification Course organized by the Hong Kong Police Force (HKP) since 2005; whether it has assessed the effectiveness of the course; if it has, of the criteria adopted in making and the results of such an assessment; if not, the reasons for that; whether there are measures to encourage law-enforcement officers to participate in the course; if so, of the details of such measures; if not, the reasons for that; and*
- (e) *of the channels through which the Technology Crime Prevention Unit of the HKP educate the public on the measures to prevent technology crimes?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) The rise in the number of technology crimes is believed to be directly related to the increasing popularity of Internet usage and online games.

About half of the technology crimes handled by the police are related to online games, involving inadequate awareness of online security on the part of some online game players. Most of the other cases are of a relatively minor nature and do not involve a large amount of money. The police will continue to enhance their professional ability and efficiency in order to keep abreast with developments in technology to deal with these crimes. They will also, through staff training and strengthening intelligence exchange with the trade and local and overseas law-enforcement agencies, combat technology crimes.

For cyber crimes related to infringing copyrights (mainly including Internet piracy, promotion and selling of counterfeiting or pirated goods over the Internet), the Customs and Excise Department

(C&ED) has been keeping the trend under close review and put every effort in keeping tabs on the most recent modes of operation. The C&ED also closely liaises with relevant parties to clamp down on piracy works. In addition, the C&ED has collaborated with the academic sector in developing a monitoring software to further enhance the efficiency of enforcement actions.

(b) From 2004 to 2006, 560, 653 and 741 cases of technology crimes respectively were reported to the police each year, with the respective detection rates being about 20%, 10% and 10%. The detection rates are lower compared to the overall detection rate (about 44%) during the same period. The main reasons include:

- Some technology crimes involve personalities and servers outside Hong Kong. This has created difficulties for investigation; and
- Criminals can more easily conceal their identities on the Internet, resulting in difficulties in verifying and tracing their real identities.

The C&ED received 205, 347 and 469 complaints related to infringing copyrights on the Internet respectively in each year from 2004 to 2006. Most of the complaints were related to the selling of copyright-infringing goods in auction sites. Among the complaints, seven, 15 and 18 cases respectively resulted in seizures of infringing materials. For most complaints, no further follow-up actions can be taken due to inaccurate or insufficient details being provided, the suspected infringing goods having already been delisted from the Internet, or that the goods not being counterfeits after seizure identifications. Therefore, the efficiency of law-enforcement actions cannot be assessed solely based on the above numbers.

(c) Different units of the police are responsible for the investigation of technology crime cases, depending on their seriousness and complexity. These include the Technology Crime Division of the Commercial Crime Bureau (with a total strength of 44 police officers), the Technology Crime Units at the Regional level

(12 police officers in each land Region, making a total of 60 officers), and the Crime Investigation Teams of the respective Police Districts/Divisions.

In addition, to assist front-line investigators in handling technology crimes and collecting digital evidence more effectively, the police have established the "Technology Crime Initial Response Cadre", which is made up of 120 Cadre Members. Apart from performing their daily duties, these Cadre Members are on stand-by round-the-clock, providing support to front-line investigators as necessary.

The C&ED established two Anti-Internet Piracy Teams (AIPTs) in 2000 and 2005 respectively. Each team comprises seven Customs officials who have attended professional courses on the latest investigative tools to tackle cyber crimes. They are responsible for monitoring and detecting activities over Internet forums and auction sites for selling counterfeiting goods.

Overall speaking, the number of officers responsible for investigation of technology crimes has been maintained at an appropriate level.

- (d) With a view to improving the professional knowledge in computer forensics among law-enforcement officers, the police have been conducting different courses in the relevant areas in recent years. Apart from police officers, these courses have also been attended by relevant officers from other law-enforcement departments. In 2005, the police began to conduct the "Computer Forensics Certification Course". To date, two classes have been conducted, with 39 officers passing the courses. In 2007, the police conducted the "Application Computer Forensics Course" to further enhance the professional capability of serving computer forensics examiners. So far, 22 officers have completed this course. To introduce the work of computer forensics to more law-enforcement officers and to ensure that the police have a sufficient pool of readily trained officers in future to meet the increasing demand in the area, the police also launched the "Introduction to Computer Forensics" course in 2007. Sixteen officers have enrolled in the first class of the course.

The three computer forensics courses above will continue to be conducted in future. Their curriculums are subject to stringent and professional assessment of the Police College to ensure their practicality and to ensure that digital evidence collected in accordance with the computer forensics procedures is admissible in legal proceedings. As these courses can raise the level of professionalism among law-enforcement officers, the response among the officers has been encouraging. Various departments will encourage their officers to attend these courses in accordance with the needs of their duties and their professional training background.

- (e) In respect of public education to prevent technology crimes, the police have taken a number of measures, including:
- (i) Publishing information on prevention of technology crimes at the police website (<<http://www.police.gov.hk>>) for reference by the public;
 - (ii) Implementing the Technology Crime Prevention Strategy to promote information technology security and cyber ethics among youths. This includes talks on prevention of technology crimes at schools, tertiary institutions and vocational training institutes, and for different sectors of the community;
 - (iii) Joining hands with the Education and Manpower Bureau and relevant institutions on a programme titled "Cyber Ethics for Students and Youth", and setting up a website (<<http://cesy.qed.hkedcity.net>>) which provides a wealth of information on cyber ethics and technology crime prevention;
 - (iv) Dissemination of technology crime prevention and related issues to the public through the television programme "Police Report";
 - (v) In respect of the Junior Police Call, conducting the "Junior Police Call Information Technology Security Ambassadors"

programme in conjunction with a private company to disseminate technology crime prevention messages through a cadre of ambassadors to their peers and schoolmates; and

- (vi) Working in collaboration with the Office of the Government Chief Information Officer and the Hong Kong Computer Emergency Response Team since 2005 to promote the "Hong Kong Clean PC Campaign". The campaign aims at enhancing people's awareness of information technology security so as to minimize the chance of their computers being compromised.

Disposal of Compact Fluorescent Lamps

16. **MISS CHOY SO-YUK** (in Chinese): *President, it has been reported that although compact fluorescent lamps (CFLs) are more energy efficient than conventional tungsten light bulbs, they contain heavy metals and, if disposed of improperly and casually discarded at landfills, will contaminate the land and underground water. In this connection, will the Government inform this Council:*

- (a) *of the total number of waste CFLs generated within the Government last year; how the Government disposed of such CFLs, and among them, the respective numbers of CFLs collected separately and transported to the Chemical Waste Treatment Centre (CWTC) on Tsing Yi Island and those delivered to landfills;*
- (b) *whether it will study how to recover and dispose of waste CFLs and establish a proper recovery system; if it will, of the details; if not, the reasons for that; and*
- (c) *whether it will step up publicity efforts to educate the public on how to dispose of waste CFLs properly?*

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

- (a) There are facilities in the CWTC for treating waste CFLs and fluorescent tubes and recovering their mercury content. At present, the major service users are government departments, including all departments which produce a large number of waste CFLs and fluorescent tubes, such as the Electrical and Mechanical Services Department, Highways Departments, Housing Department, Civil Engineering and Development Department and Drainage Services Department. In 2006, a total of about 336 900 number of waste CFLs and fluorescent tubes were collected and delivered to the CWTC for treatment by these departments. Separate figures for the waste CFLs and fluorescent tubes are not available. These departments have recycled the majority of the waste CFLs and fluorescent tubes. Occasional individual waste CFLs and fluorescent tubes can be disposed of together with other waste at landfills which are equipped with impermeable liner, leachate collection and treatment system as well as surface and groundwater management systems that could effectively treat pollutants to prevent contamination to the land and underground water.
- (b) Although the facilities at the CWTC mainly provide services to government departments at present, the Environmental Protection Department (EPD) has been in close liaison with other organizations and public members who are major producers of waste CFLs and fluorescent tubes, such as public transport companies, tertiary education institutes, the airport, hotels, shopping malls and public and private residential developments, to encourage them to use the waste CFLs and fluorescent tubes treatment facilities at the CWTC. Organizations and public members using the facilities have to arrange for collection and storage of waste CFLs and fluorescent tubes on their own, deliver them in bulk to the CWTC and pay a disposal fee of \$1,027 per tonne. With the public awareness of and support for energy saving, we believe that CFLs will be more widely used. The EPD will step up publicity with a view to attracting more people to use the facilities voluntarily.
- (c) The EPD will strengthen liaison with property management companies with a view to attracting more housing estate residents to participate in the recycling of waste CFLs and fluorescent tubes. We will recommend the method of recycling and provide relevant information and publicity posters to the housing estates.

Housing for Senior Citizens Units

17. **MR ALBERT CHAN** (in Chinese): *President, as tenants of Housing for Senior Citizens (HSC) units provided for elderly singletons have to share the use of kitchens and toilets, the vacancy rate of such units has remained on the high side. In view of this, the Hong Kong Housing Authority (HA) lifted the age limit for these units in 2001. I have learnt that conflicts often arise between younger and elderly tenants because of different living habits. In this connection, will the Government inform this Council:*

- (a) *of the number of HSC units at the end of each of the past three years which had been left vacant for three months or more;*
- (b) *of the number of HSC units allocated by the Housing Department (HD) to applicants on the Waiting List in each of the past three years, and the age distribution of the persons being allocated such units; and*
- (c) *whether it will restore the age limit for HSC units; if so, of the details; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): President, the tenants of the earliest HSC have to share kitchens and toilets. Some of the units of the later designs are provided with independent toilets, but the kitchen facilities still have to be shared. As most public rental housing (PRH) applicants prefer one-person self-contained PRH units, and the waiting time has been shortened due to the increase in the supply of small self-contained PRH units, many applicants have refused to move to HSC units. This has resulted in a relatively high vacancy rate for HSC, in particular the old-style units with shared kitchen and toilet facilities. To better utilize the public housing resources, the HA relaxed the age restriction for HSC tenants in 2001, allowing non-elderly singletons with housing needs to live in HSC units.

In 2005, the HA conducted a survey on the living conditions of the HSC tenants. The results revealed that the HSC tenants could live together harmoniously as a whole. There were only a small number of disputes arising from different living habits of the residents. From 2004 to 2005, among the 7 600 HSC tenants, there were only three dispute cases involving elderly and non-elderly tenants.

HSC provides 24-hour warden service. Most of the disputes have been promptly resolved through the wardens' mediation. In fact, apart from helping resolve disputes, the wardens also organize social activities to foster harmonious relations among tenants. For cases which are difficult to resolve, the HD will arrange counselling service by social workers. Transfer may also be considered if the situation so warrants.

My reply to the three-part question is as follows:

- (a) Over the past three years, the numbers of HSC units which had been left vacant for three months or more are as follows:

<i>Year (as at 31 December)</i>	<i>Number of flats vacant for three months or more</i>
2004	840
2005	1 337
2006	754

- (b) Over the past three years, the numbers of HSC units allocated to Waiting List applicants and the age distribution of these applicants are as follows:

<i>Year (as at 31 December)</i>	<i>Number of flats allocated</i>	<i>Elderly applicants (60 years or above)</i>	<i>Non-elderly applicants (under 60 years)</i>
2004	436	268	168
2005	456	286	170
2006	233	145	88

- (c) The reason for the HA to relax the age restriction for HSC tenants is to reduce the vacancy rate for HSC and speed up the allocation of flats to non-elderly persons with housing needs, so as to achieve a better utilization of resources. Past experience shows that tenants of different ages generally get along harmoniously and disputes are few. Therefore, the HA has no plan to reinstate the age restriction for HSC tenants.

In the long run, the HA is converting HSC units with consistently high vacancy rate (usually the old-style units with shared kitchen

and toilet facilities) into normal PRH flats or other uses by phases. It is anticipated that about 500 units would be converted every year. Apart from better utilizing the resources, the conversion scheme would fundamentally resolve the daily living problems that tenants may encounter in sharing the use of facilities. Vacant HSC units covered by the conversion scheme will not be reallocated to applicants.

Promotion of Social Enterprises

18. **MR FREDERICK FUNG** (in Chinese): *President, on April 25 this year, the Financial Secretary said in reply to my question that the Administration was considering possible options for implementing a trial scheme to facilitate social enterprises (SEs) employing able-bodied unemployed persons to participate in the public procurement process in the direction of identifying new businesses where SEs would have a relative competitive edge (for example, delivery of personal care services to other disadvantaged groups). The Government had also collected information from the Education and Manpower Bureau, Labour Department, Home Affairs Department, Food and Environmental Hygiene Department, Leisure and Cultural Services Department, Hospital Authority and Social Welfare Department about the contracts known to involve procurement of goods and services from SEs. In this connection, will the Government inform this Council of:*

- (a) *further details of the abovementioned trial scheme, including the responsible departments, the latest progress, expected implementation time and work schedule, as well as the estimated number of beneficiaries and the effectiveness in alleviating poverty;*
- (b) *the number of government contracts which involve the delivery of personal care services to other disadvantaged groups and the contract value involved, as well as the other businesses where SEs are relatively more competitive;*
- (c) *details of the efforts to promote the values and potentials of SEs within the Government, in particular to those responsible for public procurement, including the progress of the work, the Policy Bureaux and government departments to which the promotional efforts have been directed, the types of goods and services promoted, and the methods and timetable for promotional efforts; and*

- (d) *detailed information from the abovementioned bureau and departments about the contracts known to involve procurement of goods and services from SEs, including the types, quantities or times of the goods and services procured, and whether they include goods and services which have obtained organic, environment-friendly or fair trade certifications, the estimated number of beneficiaries and the effectiveness in alleviating poverty; and whether it will consider collecting information in this regard from all government departments?*

FINANCIAL SECRETARY (in Chinese): President,

- (a) One of the major tasks of the Administration is to actively promote the development of SEs with a view to helping the unemployed in need to integrate into the job market and achieve self-reliance. The Home Affairs Bureau will be responsible for vigorously promoting the further development of SEs, and will further consider the feasibility and details of the possible options in implementing the trial scheme.
- (b) Regarding government contracts, many non-governmental organizations (NGOs) operating SEs have indicated that it would be more effective to focus on identifying new, stable businesses in which SEs have a relative competitive edge, for example, provision of personal care services to disadvantaged groups. At its meeting on 27 September 2006, the Commission on Poverty (CoP) examined the potentials of the home help and personal care services markets and the successful examples of SEs, for example, delivery of household repair and postnatal care services. The Commission recognizes that the people-oriented approach emphasized by SEs has given them a relative edge in the relevant sectors. However, most of the personal care services are currently provided by NGOs through traditional service model. We also do not have any information on the number of such service contracts provided by SEs and the amount involved.
- (c) To effectively promote the development of SEs, it is vital to gain public recognition and support. In this connection, apart from

public education and publicity, we have been devoting a lot of efforts to promote within the Government, including those responsible for public procurement, the values and potentials of SEs. We will continue to step up our efforts in publicity work so as to further promote the values of SEs and the additional benefits that SEs can bring to the community.

The Government has been working closely with the Hong Kong Council of Social Service (HKCSS) to actively promote the products and services of SEs. Recently, the HKCSS is organizing a series of marketing activities for SEs, which include the compilation and publication of a catalogue of products and services offered by SEs, in order to facilitate the Government and stakeholders concerned in promoting and developing SE brands and products.

- (d) We are aware that there are some SEs promoting goods and services on organic, environment-friendly or fair trade certifications, for example, organic farm products, environment-friendly products, and recovery and recycling services.

The Government has long implemented a green procurement policy. As early as 2000, the Stores and Procurement Regulations (SPR) were amended to require government departments to give consideration, as far as possible and where economically rational, to purchase green products that comply with the specific standards. All bureaux and departments must follow the SPR and the green procurement guidelines therein when making their procurement decisions. Since 2000, the Government has developed a set of green specifications for a number of commonly used items (including recycled papers, office stationeries and cleansing supplies) to ensure that they comply with specific environmental protection standards. Government departments will also consider including other environment-friendly features in various marking schemes for procurement, with a view to encouraging market players to develop cleaner and greener products. SEs which can meet the requirements of green procurement can participate in bidding the relevant government contracts.

In 2006-2007, some \$28 million worth of goods and services were procured from SEs by the bureaux and departments represented at

the CoP¹, including over 100 government contracts on cleansing, catering (restaurants/light refreshment kiosks), printing, letter shopping/delivery, gardening and car washing services. However, we do not have the detailed information of contracts in relation to goods and services on organic, environment-friendly or fair trade certifications, and so on.

¹ These include the Education and Manpower Bureau, Labour Department, Home Affairs Department, Food and Environmental Hygiene Department, Leisure and Cultural Services Department, Hospital Authority and contracts known to the Social Welfare Department.

Courses Attended by Correctional Services Department Officers

19. **MR MARTIN LEE** (in Chinese): *President, information from the Correctional Services Department (CSD) indicates that some CSD officers went to Thailand earlier to attend a Supervisory Criminal Investigator Course, which was conducted by the International Law Enforcement Academy in Bangkok of Thailand. The content of the course covers criminal investigation techniques, anti-transnational crime tactics, crime scene management and evidence collection techniques, and so on. In this connection, will the Government inform this Council of the following in the past three years:*

- (a) *the number and ranks of the CSD officers who attended the above course, the total public expenditure incurred, and the programme and subhead of expenditure in the CSD's Estimates under which provision was made for such expenditure;*
- (b) *how the duties of those CSD officers who attended the course relate to criminal investigation techniques, anti-transnational crime tactics, crime scene management and evidence collection techniques; and*
- (c) *whether any CSD officers have been sponsored by the CSD to attend courses which do not relate to prison management, prisoner rehabilitation and the correctional services industry; if so, of the names of the courses, the number and ranks of officers involved, and the total public expenditure incurred?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) In the three-year period ending May 2007, one officer of the CSD attended the Supervisory Criminal Investigator Course conducted by the International Law Enforcement Academy in Bangkok, Thailand. The rank of the officer concerned was Chief Officer. The expenditure incurred was \$12,333 and was accounted for under Programme (1) Prison Management and Subhead 000 Operational Expenses in the Expenditure Estimates of the CSD.
- (b) The CSD officer who attended the above course was responsible for overseeing the security of correctional institutions under the CSD (which includes preventing, combating and investigating activities in the institutions that are unlawful or related to criminal offences) and maintaining close liaison with other law-enforcement departments. Training provided by the course could enhance not only the professional knowledge and skill of the officer concerned, but also the efficiency of prison management of the CSD.
- (c) In the past three years, no CSD officers attended courses which did not relate to "Prison Management", "Prisoner Rehabilitation" and "Correctional Services Industries".

Weight Assessment for Children

20. **MR LI KWOK-YING** (in Chinese): *President, will the Government:*

- (a) *set out by groups each of two years and gender:*
 - (i) *the average body weight of new-born babies in the past 20 years, and the respective percentages of underweight and overweight babies in the total number of new-born babies during the period;*
 - (ii) *the average body weight of children under the age of two in the past 10 years, and the percentage of overweight children in the total number of children during the period; and*

- (b) *set out the respective percentages of overweight pre-school children and primary school pupils in the respective total numbers of these two groups of children according to the results of the most recent survey, and how these percentages compare to the results of the preceding two similar surveys?*

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

- (a) The data on new-born babies' body weight collected by the Government over the past 20 years are detailed at Annex. As the data show, the average body weight of new-born babies at birth is 3.16 kg in 2006, representing a decrease of 50 g as compared with the highest average body weight at birth of the past 20 years. The decrease in the average body weight at birth is mainly attributable to a decline in the percentage of overweight babies in the recent 20 years. The advances of medical technology have also led to a higher survival rate for premature babies whose body weight is generally lower, resulting in a lower average body weight of babies. We do not classify and maintain data about the body weight specifically for infants under the age of two and are therefore unable to provide the data in part (a)(ii) of the question.
- (b) Infants receive regular services at the Maternal and Child Health Centres (MCHCs) under the Department of Health (DH) at birth and at the age of one, two, four, six, 12 and 18 months and four years. The MCHCs conduct growth monitoring for attending children from infancy to the age of five years and measure their weight, height and head circumference at specified ages. This serves to monitor the growth of individual children for early identification and referral of those with problems for follow-ups by specialists. Guidance is also provided for parents on the growth and nutrition of their children.

At present, the MCHCs have not conducted overall collation and analysis of the data of individual cases. Nevertheless, we have joined hands with various academic institutions at different times to review and study the growth status of pre-school children. A longitudinal study has been launched by the DH in collaboration with the Faculty of Medicine of the University of Hong Kong

(HKU) on 8 000 children born in 1997. The findings, which were released earlier on, show that babies who are born heavy or grow too fast run a higher risk of being overweight or obese when they reach the age of seven. Besides, a preliminary survey is being conducted by the MCHCs on the eating habits and obesity rates of attending children aged four in order to get a better understanding of the nutrition and growth of young children in Hong Kong and further improve the existing counselling service on children's nutrition.

To better monitor the growth and the nutrition situation of children in different periods and to formulate relevant policies and measures, the DH adopts a set of standards that is appropriate for the physique of Hong Kong people to assess the growth of school children. The standards were developed locally according to the findings of a territory-wide survey on 25 000 individuals ranging from birth to 18 years old conducted in 1993 by a group of experts. Based on these standards, students whose body weight is greater than 120% of the median weight of students of the same height in 1993 will be diagnosed as obese. On this basis, the obesity rates of primary school students are as follows:

<i>Class levels</i>	2003- 2004	2004- 2005	2005- 2006
Primary One	14.4%	14.7%	14.6%
Primary Two	18.1%	17.3%	18.3%
Primary Three	19.9%	20.1%	20.5%
Primary Four	21.2%	20.7%	21.7%
Primary Five	20.0%	20.2%	20.6%
Primary Six	18.2%	18.3%	19.1%
Overall Percentage for All Class Levels	18.7%	18.7%	19.4%
Number of Primary School Students Participating in the Student Health Service	377 248	363 863	350 975
Number of Participants as a Percentage of the Total Number of Primary School Students in the Territory	79.9%	80.4%	81.7%

According to the data of the DH, the obesity rate of primary school students has been on a rising trend over the past decade from 16.1% in 1995-1996 school year to 19.4% in 2005-2006 school year. In view of this, the DH has launched the "EatSmart@school.hk

Campaign" in all primary schools in Hong Kong since the 2006-2007 school year, which aims to create a living environment that encourages and supports school students for healthy eating and to enhance proactively the promotion of healthy eating among them through the implementation of strategies in terms of research, evaluation, education, publicity and advocacy, as well as multi-faceted collaboration engaging schools, parents, food suppliers and the community at large.

Meanwhile, the HKU has been commissioned by the Centre for Health Protection to conduct a survey on children's health, including the study of the weight, height and Body Mass Index of children aged below 15.

Annex

Statistics on Body Weight at Birth of Babies Born between 1987 and 2006

Year	Average Body Weight at Birth (kg)			Number of Underweight Babies (less than 2.5 kg)						Number of Overweight Babies (4.0 kg and above)					
	Male	Female	Total	Male		Female		Total		Male		Female		Total	
1987	3.24	3.14	3.19	1 470	(4.1%)	1 642	(4.8%)	3 115	(4.5%)	2 016	(5.6%)	1 094	(3.2%)	3 110	(4.5%)
1988	3.24	3.14	3.19	1 594	(4.1%)	1 805	(5.0%)	3 406	(4.5%)	2 105	(5.4%)	1 127	(3.1%)	3 232	(4.3%)
1989	3.25	3.15	3.20	1 441	(4.0%)	1 633	(4.8%)	3 080	(4.4%)	2 086	(5.8%)	1 212	(3.6%)	3 298	(4.8%)
1990	3.25	3.16	3.21	1 379	(3.9%)	1 602	(4.9%)	2 985	(4.4%)	2 057	(5.9%)	1 156	(3.6%)	3 213	(4.8%)
1991	3.25	3.15	3.20	1 449	(4.2%)	1 687	(5.1%)	3 145	(4.6%)	2 010	(5.8%)	1 133	(3.4%)	3 144	(4.6%)
1992	3.26	3.15	3.20	1 468	(4.0%)	1 753	(5.1%)	3 231	(4.6%)	2 117	(5.8%)	1 134	(3.3%)	3 253	(4.6%)
1993	3.24	3.15	3.19	1 598	(4.4%)	1 690	(5.0%)	3 298	(4.7%)	2 006	(5.5%)	1 126	(3.3%)	3 135	(4.5%)
1994	3.25	3.14	3.19	1 497	(4.0%)	1 837	(5.4%)	3 342	(4.7%)	2 064	(5.5%)	1 139	(3.3%)	3 209	(4.5%)
1995	3.24	3.14	3.19	1 494	(4.2%)	1 702	(5.1%)	3 197	(4.7%)	2 035	(5.7%)	1 133	(3.4%)	3 168	(4.6%)
1996	3.24	3.14	3.19	1 432	(4.4%)	1 579	(5.2%)	3 012	(4.8%)	1 792	(5.5%)	1 055	(3.4%)	2 847	(4.5%)
1997	3.23	3.13	3.18	1 480	(4.8%)	1 573	(5.5%)	3 055	(5.2%)	1 695	(5.5%)	891	(3.1%)	2 586	(4.4%)
1998	3.24	3.13	3.19	1 206	(4.4%)	1 429	(5.7%)	2 640	(5.0%)	1 646	(5.9%)	821	(3.3%)	2 467	(4.7%)
1999	3.24	3.14	3.19	1 235	(4.6%)	1 413	(5.8%)	2 648	(5.2%)	1 650	(6.2%)	840	(3.4%)	2 491	(4.9%)
2000	3.24	3.14	3.19	1 295	(4.6%)	1 489	(5.8%)	2 785	(5.1%)	1 669	(5.9%)	823	(3.2%)	2 492	(4.6%)
2001	3.24	3.14	3.19	1 242	(4.9%)	1 348	(5.8%)	2 590	(5.4%)	1 447	(5.8%)	789	(3.4%)	2 236	(4.6%)
2002	3.23	3.12	3.18	1 198	(4.8%)	1 366	(5.9%)	2 564	(5.3%)	1 442	(5.8%)	681	(2.9%)	2 123	(4.4%)
2003	3.22	3.12	3.17	1 185	(4.9%)	1 407	(6.2%)	2 592	(5.5%)	1 265	(5.2%)	682	(3.0%)	1 947	(4.1%)
2004	3.23	3.12	3.18	1 288	(5.0%)	1 491	(6.2%)	2 779	(5.6%)	1 434	(5.6%)	787	(3.3%)	2 221	(4.5%)
2005	3.22	3.12	3.17	1 390	(4.7%)	1 599	(5.9%)	2 989	(5.2%)	1 511	(5.1%)	784	(2.9%)	2 295	(4.0%)
2006	3.21	3.11	3.16	1 542	(4.5%)	1 810	(5.8%)	3 353	(5.1%)	1 568	(4.5%)	787	(2.5%)	2 355	(3.6%)

The figures in brackets represent the percentage of babies in the total number of babies whose weights at birth are known.

BILLS**Second Reading of Bills****Resumption of Second Reading Debate on Bills**

PRESIDENT (in Cantonese): Bill. We now resume the Second Reading debate on the Rail Merger Bill.

RAIL MERGER BILL**Resumption of debate on Second Reading which was moved on 5 July 2006**

PRESIDENT (in Cantonese): Ms Miriam LAU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MS MIRIAM LAU (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Rail Merger Bill, I now report on the main deliberations of the Bills Committee.

The Rail Merger Bill (the Bill) seeks to introduce amendments to the Mass Transit Railway Ordinance (Cap. 556) (MTRO) and the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) (KCRCO) to provide the necessary legal framework for implementing the rail merger.

The Bills Committee noted that after the proposed merger of the Mass Transit Railway (MTR) and the Kowloon-Canton Railway (KCR) systems, the Operating Agreement (OA) signed between the MTR Corporation Limited (MTRCL) and the Government will be extended to become an integrated Operating Agreement (IOA) to cover the regulation of the operation of the MTR and KCR.

The Bills Committee had since July last year held a total of 37 meetings (82 hours in total) to study in detail the issues of concern to members. Most members of the Bills Committee supported the rail merger. After the merger, passengers will enjoy improved convenience through the seamless interchange

arrangements between the two railway systems and they will not need to pay a second boarding charge. The merger will enhance efficiency of the rail network and reduce duplication, thereby achieving synergy and creating room for economies, which will benefit the majority of rail passengers through fare reduction effective upon the implementation of the rail merger. For the railway corporations, the respective strengths of the MTRCL and the Kowloon-Canton Railway Corporation (KCRC) can supplement each other through the merger, making the post-merger corporation (MergeCo) a stronger railway operator.

However, some members still have many misgivings about the merger for various reasons. Areas of their major concern include possible monopolization after the rail merger, transfer of public assets to a listed corporation, financial arrangements in the merger proposals, pricing and valuation of the property package, post-merger regulation, demands for improvements to station facilities, and the needs of people with disabilities.

Firstly, in response to members' concern about the financial arrangements in the merger proposals, the Bills Committee had studied whether or not the relevant provisions are appropriate. In this connection, the authorities reiterated that under the proposed deal structure of the rail merger, the Government is not disposing of the assets of the KCR system. Upon expiry or termination of the service concession, the MergeCo is obliged to deliver back to the KCRC a railway system that meets the prevailing operating standards. Further, in considering the deal structure, the Government has already sought to structure the financial terms to capture the likely future performance of the KCR system. Under the service concession arrangement, the KCRC will not only receive an upfront payment of \$4.25 billion and fixed annual payments of \$750 million, it will also enjoy the upside through a revenue-sharing arrangement as the revenue from the KCR system increases. This will ensure reasonable protection for the Government if the performance of the KCR system improves.

Some members of the Bills Committee were worried that without going through a public tender or auction, the KCRC's properties may be disposed of at a severely diminished valuation. According to the Administration, the Government's intention is to sell the property package to the MTRCL on market terms. A professional property valuation consultant appointed by the Government, who adopted a methodology for property valuation widely accepted in the market, has confirmed that the pricing of the property package is fair and

reasonable. As to whether the property package has to be included as part of the financial arrangements in the merger proposal, the Administration advised that this is the result of prolonged discussions and negotiations with the MTRCL and considered that the focus should be on the benefits that the overall merger proposal would bring to the general public and passengers of the two railways, rather than isolating individual items for analysis.

Fare regulation is among the issues of the utmost concern to the public in the entire merger deal. The Bills Committee has examined various proposals on fare regulation. At present, both the MTRCL and the KCRC enjoy fare autonomy. Under the agreement, fare levels after the rail merger will be adjusted according to a formula which is linked to changes in Consumer Price Index and wage index as well as a predetermined productivity factor.

The Bills Committee expressed strong views on the proposal to allow MergeCo to adjust individual fares within the range of ± 10 percentage points from the overall fare adjustment rate. After further discussion with the MTRCL, the authorities agreed that the permitted range of adjustment be revised to \pm five percentage points.

In the process of the merger, the two railway corporations have undertaken not to increase their fares for 24 months starting from April 2006. After several rounds of discussion between the Administration and the MTRCL, the MTRCL finally offered to extend the effective period of its commitment of not to increase fares from April 2008 to June 2009. The two railway corporations have also undertaken to reduce the railway fares immediately from the first day of the merger.

The Bills Committee expressed grave concern about the exclusion of the Light Rail (LR) services from the proposed fare reduction package. The Bills Committee has urged the Administration and the two railway corporations to expeditiously review the matter. Besides, there is also a need for the Administration and MergeCo to review the role of the LR in the overall public transport services market as soon as possible.

The Bills Committee held in-depth discussions on a series of matters relating to safety and service standards. The Administration advised that at present, the safe and efficient operation of the MTR and KCR railways are regulated under the MTRO and the KCRCO and also the OA signed between the

Government and the MTRCL. The Hong Kong Railway Inspectorate is responsible for monitoring railway safety, while the Transport Department is responsible for monitoring the performance of railway services. After the merger, all the relevant provisions in the existing OA will be retained in the IOA with suitable modifications to cover the regulation of both the MTR and the KCR railways. The Administration further advised that there are clear performance requirements stipulated in the IOA and that the level of a number of performance requirements will be uplifted after the rail merger.

With regard to improvements to station facilities, the Bills Committee has also passed a motion, strongly urging the Government to instruct the MTRCL to expeditiously formulate a policy on the provision of public toilets at railway stations, and to provide public toilets within the areas of the stations for the convenience of the public, including separate toilets specially for people with disabilities. The Bills Committee has urged the Administration to report on these matters to the Subcommittee on Matters Relating to Railways in six months' time. Moreover, the Bills Committee also considered it necessary for the MTRCL to further improve the provision of facilities and services to people with disabilities, in order to promote their integration into society.

Members had expressed concern about the proposal of offering half-fare concession to people with disabilities. The Administration was aware of members' concern and is presently considering ways to take forward the matter in collaboration with the Health, Welfare and Food Bureau. The Administration will continue to discuss the matter with the Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities.

On the revocation and suspension of franchise, the Bills Committee noted that there were relevant provisions in the MTRO. The Administration proposed that these provisions should continue to apply, subject to certain modifications to cater for the expanded scope of the franchise as well as some new arrangements that arise from the service concession arrangement. The Administration pointed out that the IOA already stated clearly the safety requirements and minimum performance level for the services to be provided. The Administration will take these into account and consider all relevant factors in assessing whether MergeCo is in default under the franchise on a case by case basis.

However, some members considered that the Administration should set out objective and clear standards for implementing the relevant provisions. The Administration was, therefore, requested to set out its policy intent and the factors to be taken into account when determining whether a particular incident will be construed as a substantial failure or substantial breakdown of service by MergeCo at the resumed Second Reading debate of the Bill.

Section 54 of the MTRO and section 35 of the KCRCO stipulate the scope of exemptions granted to the MTRCL and the KCRC under the Buildings Ordinance (Cap. 123) and the Public Health and Municipal Services Ordinance (Cap. 132). The Bills Committee had examined the scope of exemptions granted under section 54 of the MTRO and section 35 of the KCRCO to see if there is a need to align the provisions therein after the rail merger. After discussion, the Administration will introduce a Committee stage amendment (CSA) to the Bill to clearly stipulate that during the concession period, section 54(1) of the MTRO which exempts the MTRCL from the provisions concerning public toilets in the Public Health and Municipal Services Ordinance does not apply in relation to any part of the franchise pertaining to the KCRC railway.

The Bills Committee noted that prior to the privatization of the MTR, the name of the corporation was "Mass Transit Railway Corporation" (地下鐵路有限公司). Upon privatization, the name of the entity has been changed to "MTR Corporation Limited" (地鐵有限公司). In the context of the Bill, the Chinese name of the corporation is proposed to be changed to "香港鐵路有限公司" upon merger whereas the English name will remain unchanged.

The Bills Committee expressed concern about the confusion caused by the use of different names in the ordinances and urged the Administration to ensure that proper references to the name of the corporation are used in the relevant ordinances. For clarity purposes, the Administration will introduce CSAs relating to the change of the Chinese name of the corporation upon merger and the interpretation of the various references to the name of the corporation to reflect the change of its name from privatization to the rail merger.

Moreover, the Bills Committee also put forward a number of proposals to improve the drafting of the Bill. After discussion, the Administration agreed to introduce a number of CSAs. The Bills Committee supported the CSAs proposed by the Administration. The Bills Committee also noted that some

members would propose CSAs to the Bill. As these CSAs will be discussed later at the Committee stage, I am not going to speak on them now in order to avoid repetition. Thank you, Madam President.

Madam President, I now give an overall response to the Rail Merger Bill on behalf of the Liberal Party.

Madam President, I wish to make it clear at the outset that the Liberal Party supports the rail merger. At least we support the general principle of the merger and so, we will support the passage of the Bill. We consider that Hong Kong is a very small place but there are two railway corporations operating at the same time and they actually may not necessarily engage in true competition with each other. On the contrary, public interest may be jeopardized as a result of them operating on their own separately. A case in point is that passengers are required to pay a second boarding charge when interchanging with the MTR or KCR.

However, thanks to the merger synergy, all passengers using the Adult Octopus Card will enjoy discounted fares immediately after the rail merger. This arrangement will benefit as many as 2.8 million passenger trips daily. For example, MTR passengers of long-haul journeys charging an adult fare of \$12 or more will benefit from a fare reduction of at least 10%, whereas fares between \$8.5 and \$11.9 will at least be reduced by 5%. Besides, following the abolition of the second boarding charge, passengers interchanging from the MTR to the KCR will enjoy a fare reduction ranging from \$1 to \$7. For instance, the railway fare for a journey from City One Shatin to Kwun Tong, which is \$11.8 now, will be reduced to \$8.1, which is \$3.7 less or a reduction of 31.4%, after the merger.

More importantly, apart from the fare reduction, MergeCo has undertaken not to increase the fares for two years after the enactment of the Bill. In other words, in the two years up to June 2009, we will not have to worry about an increase in the fares even in times of inflation. Besides, after the fare reduction, future fare increases, if any, will be calculated using a lower fare level as the basis. This is a merit, and we must not lose sight of it.

In fact, as early as last year when the rail merger was discussed for the first time, the Government already stated at the first opportunity that the two railway corporations had guaranteed no increase in their fares for two years

starting from April 2006, but the Bill had not yet been tabled in the Legislative Council at that time. I remember that at a meeting of the Panel on Transport when this issue was discussed for the first time, I said to the Government that under such arrangement, the public could benefit from the fare reduction only when the Bill was ultimately endorsed, and this would mean that the public could benefit from it for only a few months successively and this, I said, was inadequate. I also called on the Government to consider stipulating that the fares would not be increased for two years after the enactment of the Rail Merger Bill. Only in this way can the public truly enjoy the benefits when fares are reduced or remain unchanged after the merger.

I am very glad that after much lobbying by colleagues (including myself), the authorities changed their mind and agreed to extend the period of the commitment not to increase the fares to June 2009, which has greatly enhanced protection for passengers. Yet, there is still a dangling end, because when we say that the fares will come down or remain unchanged, passengers who pay the normal fare will certainly benefit from it, but many passengers who travel on the two railways on monthly pass or the concessionary "One-Month Pass" do not know for how long they can continue to enjoy these concessions because it has been the position of the Government and the MTRCL to review these concessions from time to time in the light of market conditions. These passengers are certainly worried that these concessions may be abolished after the review, in which case they would not enjoy the benefits of the merger. In this connection, I very much hope that the Government will actively take this into consideration, and I have actually made this point before. Since the moratorium on fare increase has been extended to June 2009, a similar guarantee should be given at least to passengers currently enjoying other concessions, including passengers who buy the monthly pass, that the MTRCL or more accurately, MergeCo, will not abolish these concessions or attempt to make any upward adjustment in fares.

If such guarantee is provided, I believe all rail passengers, whether they pay the normal fares or travel with the Octopus Card or monthly pass, or are enjoying other concessions, can truly enjoy the benefits of the merger up to June 2009 (which means almost two years), so that all the passengers will rejoice. I very much hope that the Government and the MTRCL can give us a positive response.

I would like to come back to the arrangements for the merger. As synergies will be achieved as a result of the merger, including cost-effective

procurement, streamlining of overlapping functions, consolidating the financial processes, and so on, with an estimated value of as much as \$450 million per annum, the MTRCL has undertaken to return them to the public. So, these synergies arising from the merger will be returned to the passengers for their benefit. Therefore, we think that not only will the level of fares be lowered in future, the post-merger corporation will also achieve greater efficiency from consolidated operation, and passengers will hence benefit from the improvements to be brought by the merger in respect of, say, interchange stations, customer service centres, ticketing service, and improved convenience in travelling between the two railway systems.

On the question of whether or not the merger would reduce competition between the two railway corporations, many colleagues criticized that the merger would preclude competition because the MTRCL and the KCRC would be merged into one corporation and so, there would not be competition between them. But basically, true competition has never existed between the two railway corporations, for their rail alignments are different, and passengers cannot choose to take the MTR instead of the KCR. It is because their alignments cover different areas, and if a passenger needs to take the KCR, he will have to take the KCR; and if he does not take the KCR, he takes the MTR because he goes to a different destination.

On the contrary, a passenger who does not take the MTR still has other options, and these options constitute competition. The other modes of transport include buses, taxis, minibuses and trams, which are competing with the railways. Therefore, our main objective is to ensure that other modes of transport will continue to operate normally after the rail merger, so that there will be healthy and true competition between the other modes of transport and the rail services provided by MergeCo. I am actually somewhat worried that the fare reduction after the merger will in one way or another put pressure on the other modes of transport, because more people may choose the railway after the fares have come down, in which case the ridership of other modes of public transport would drop. In this connection, the other modes of transport may have to improve their services or even adjust their fares, in order to compete with the railway corporation for passengers, and only in this way can there be true competition. It is incorrect to say that the MTRCL and the KCRC are originally two companies and so, competition would cease to exist between them after the merger. It is because competition has never existed between them, and they have never engaged in any true competition for patronage.

The fare adjustment mechanism (FAM) which allows for increase and reduction in railway fares to be set up after the merger can reduce the controversies arising from every fare adjustment. MergeCo can no longer use its fare autonomy to propose fare adjustment at a rate which it considers reasonable. After the merger, the corporation must really adopt an objective and transparent mechanism, using a formula which adds up the movements in Consumer Price Index and wage index and deducts productivity to ensure transparency in the calculation of fares while allowing both increase and reduction of fares. In the event of deflation in the future, fares can be reduced according to this mechanism, unlike what happened in the past when controversies were invariably aroused as to why the fares could not be reduced when deflation prevailed and when people were in great plights. We consider that this FAM can better cater for the public's affordability, because fares will be calculated on the basis of the relevant indices.

As to whether the post-merger corporation will become an independent kingdom which is not subject to any regulation in its service delivery and quality, I think such concern is unwarranted because after the merger and the acquisition of assets, the assets of the KCRC will continue to be wholly owned by the new MergeCo through the Government, as the Government is not giving up the assets of the KCR, while over 76% of the shares of the MTRCL will still belong to the Government. So, through this manner of ownership, the Government will still be serving the general public behind MergeCo. Therefore, it is certainly necessary for the Government to explain to us any changes in the shares of MergeCo in future. I also remember that the Government has given us an undertaking and assurance that it will remain as the biggest shareholder of the MTRCL. If there are changes in this respect in the future, I think the Government must really come to the Legislative Council to properly discuss the changes with us before it can proceed to make such changes.

Under the law, the railway corporation must maintain a proper and efficient service all the time. MergeCo is also required to fulfil its obligations under the franchise agreement after the merger. In the event of default by MergeCo, including a substantial breakdown of service, the Government may issue verbal warnings to or impose financial penalty on the corporation. Many colleagues said that if the Government neither exercised monitoring on the corporation nor imposed financial penalty on it, would MergeCo not become totally uncontrolled? I very much hope that colleagues can seriously take a look at this: Under the law, the Government has the power to ensure the service

quality of the corporation, and I trust that the authorities will exercise its power to stringently monitor the operation of the two railway corporations.

Some colleagues have harped on an old tune, proposing a demerit points system. In fact, the demerit points system is not a common arrangement in the international community. Even if a demerit points system is put in place, there is normally a reward system to go along with it. That is, there will be both reward and punishment, not just a system of demerit points. I wish to point out that the MTRCL in Hong Kong is a railway operator of high repute in the international community. Has its performance been so bad that a demerit points system or financial penalty is warranted? If the corporation has already achieved very good performance and if penalty is still imposed on it, will it not produce a counter effect? We have debated this issue before, and colleagues always argued that it was meant to target the company only, that only the wages of the senior management would be slashed in the event of incidents, and that this would be neutral to the employees. But we must think about this: Even if we only punish the company or the senior management, would the company or senior management not set requirements for employees in the lower echelons to meet? This would put pressure on the employees who might compromise on safety issues in the course of their work. This is the last thing we would wish to see.

This point was made in a debate in the Legislative Council some time ago, and I also mentioned an accident in Osaka, Japan. The cause of the accident was a delay in train service. The staff wanted to catch up, in order to make up for the delay as he might have been reprimanded by his superior, and the train had finally derailed. It was the most serious railway accident in Japan in 42 years, resulting in 57 deaths and injuries to 441 people. Of course, this is just an example, but the cause was that the staff wanted to make up for a delay in train service. Therefore, we must consider these examples and see if a demerit points system is really necessary.

I would like to say a few words about property development rights. Many colleagues have criticized the granting of property development rights to support the construction of railways. In fact, this has been the principle of the entire railway operation in Hong Kong, and this practice of providing government subsidy by granting property development rights has been adopted and followed since the very beginning. The study team of The Hong Kong Polytechnic University, Dr HUNG Wing-tat, and Prof Tony M RIDLEY who is the President of Rail Technology Strategy Centre at Imperial College London, all

considered that no other model in the world could make railway development fully financially viable. Even Singapore has commended this practice and plans to follow suit, and having such a system in place has made us the envy of the world. Nonetheless, our colleagues hold view that it is undesirable and that the link between them must be severed. But what will happen if they are separated? If we look at the operation of the railway alone, it is actually operating at a loss. As to the extent of loss, if we just look at the past five years and if we do not take into account property development, the MTRCL suffered a loss to the tune of \$1.64 billion over the past five years. The case of the KCRC was the same as it suffered a loss of \$74 million last year if the proceeds of property development were excluded. In other words, without the subsidy of property development, it is simply impossible for the entire railway to operate.

Some colleagues consider it necessary to sever the link between railway development and property development. In that event, the railway might not have sufficient resources to carry out necessary upgrading and maintenance work in order to provide good services, because it would not have the funds or resources to do so, and this would not do any good to members of the public. Furthermore, subsidizing rail operation by property development is originally the principle of the whole design and the whole system of the railway. If it is taken out all of a sudden at this stage and the link between them is severed, would it go against the spirit of the contract that has been signed? Certainly, no contract is unalterable but if amendment is necessary, it must be discussed by both parties to the contract and arrangements must be made to properly replace the original terms, rather than just saying that a link between railway and property development must not be permitted, that they must be separated and that the proceeds from property development must be handled separately, and so on. I think this may not necessarily merit our support under the spirit of the rule of law and also the contractual spirit prevailing in Hong Kong.

In fact, the speech that I have prepared is much longer than this actual delivery. But I think I will have the opportunity to express my other views at the Committee stage later. Thank you, Madam President.

MR ANDREW CHENG (in Cantonese): Madam President, first of all, I would like to thank the Legislative Council Secretariat and the Legal Service Division. Because I believe many colleagues will agree that a large number of amendments have been proposed to this Bill within a very short time, and it was not until

9.30 pm last night that rulings of the President as to whether or not the amendments could be proposed at this meeting were made. Also, there is the freshly printed Agenda. Yet, what does all that mean? It seems that it is the strong wish of the Government — it was my previous impression that the Government might wish to resume the Second Reading on 11 July this year, and then it was only until midway through the deliberation of the Bills Committee that the date was advanced to 6 June. I hope that the following proceedings of today will not go wrong.

Throughout the entire deliberation process, I noted that many of the internal policy papers of the Government were submitted late and the amendments to wordings of provisions were changed time and again. This makes me worry that the examination of the Bill will end up speed killing speed, whereas the quality will also be compromised.

While the various questions raised by Members relating to the proposed merger were only fully replied by the Government on 17 May, a mere 10 days were allowed for Members to make amendments. As a result, rulings of the President of the Legislative Council on our amendments were made only last night. Unlike the Interception of Communications and Surveillance Bill, Madam President, I fail to see why the merger exercise should be subject to such a strict time constraint. While the Government and the MTR Corporation Limited (MTRCL) often bundle up the proposed merger and fare reduction, the advertisement on the proposed merger and the remarks made by the Chairman of the MTRCL, Dr Raymond CHIEN, seem to remind the public at all times that fare reduction is only possible upon the merger. Any person, including Legislative Council Member, who stops or delays the proposed merger, is standing in others' way.

Madam President, I wish to stress again here that even though the cumulative deflation rate between 1997 and 2005 reached 12%, the two corporations had not reduced their fares over the past decade. If the Chairman of the MTRCL, Dr Raymond CHIEN, really wants to reduce the fares of the MTR, there is no need for him to shed crocodile tears as he can actually reduce the fares rightaway. Therefore, the approach of bundling the merger exercise up with fare reduction is indeed a reduction held to ransom, which carries no sincerity at all.

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

Deputy President, we must understand that this Rail Merger Bill concerns Hong Kong's railway development for the next 50 years, whereby the railway with a daily ridership of 4 million passenger trips will be affected. Should we not handle this carefully? Ever since the Government declined to disclose the financial information regarding the transfer of property development rights this time, the Democratic Party has been requesting the Government and the MTRCL to provide sufficient justifications to convince the community and Members that adequate supervision will be exercised on post-merger corporation, and that consideration will not be given to the interests of shareholders alone at the expense of public needs.

We have also requested the disclosure of financial information on the properties concerned, and yet, only superficial information was perfunctorily provided by the Government in a closed-door meeting. Despite that an attempt had been made to move a motion by invoking the Legislative Council (Powers and Privileges) Ordinance, the motion was negated.

As proposed in the financial arrangements, the MTRCL will purchase from the Kowloon-Canton Railway Corporation (KCRC) the property development rights of eight development projects at \$4.92 billion. Calculating with the information provided by the Government, the gross floor area of these properties exceeds 12 million sq ft — Deputy President, I must reiterate that it is 12 million sq ft. In other words, the average value of each property is \$600 million at \$400-odd per sq ft only. A senior surveyor, Mr Albert SO, estimated that the total market sale prices of Ho Tung Lau, Wu Kai Sha Station and the Tai Wai Railway Station and Maintenance Centre should lie between \$38.6 billion and \$40.9 billion. Together with the five sites which have been granted, the total market value of these eight sites should reach as high as \$78.1 billion, and even \$80.4 billion.

Generally speaking, land premium accounts for 55% of the total project cost, whereas construction cost accounts for 20%, and interest payment and marketing 15%. Even if these eight sites are sold at cost, after deducting the abovementioned three major costs, it will still leave the KCRC with \$7.8 billion to \$8 billion, which is \$3 billion higher than the less than \$5 billion acquisition price offered by the MTRCL. In other words, the Government may have disposed of the KCRC's assets at a severely diminished valuation, which is \$3 billion less. The Secretary is frowning now, and she will definitely say that my figures are wrong. However, I can tell her that the figures provided by me just now are estimates made by a senior surveyor, and different estimates have been

provided by different surveyors. If the Government dares to disclose the relevant information and confront us in an open meeting, it can avoid arousing suspicions. Why does the Government not do so to avoid arousing suspicions? Is it telling us that behind this are the disposal of the KCRC's assets at a severely diminished valuation and an obvious transfer of interests between the MTRCL and the Government?

Coming to the fare mechanism, Deputy President, the fare mechanism is pretty strange. I had praised the Secretary time and again for making a great step forward with the adjustment mechanism, which would spare us the accusation of pinpointing the transport operators in our political or populist debates, and opposing all fare increases but merely requesting fare reduction. We had therefore requested the Government to expeditiously establish an adjustment mechanism that allows increase and reduction of fares. Now, the Secretary has made it, the bus companies have made it, and the MTRCL is also ready for it. However, much to our surprise, this adjustment mechanism has strings tied for a plus/minus percentage point is provided for the permitted range, which may reach as high as 10% initially. Obviously, this is too high. The Government subsequently made a compromise, so did the MTRCL, and the permitted range was therefore revised from plus/minus 10 percentage points to plus/minus five percentage points. This is the so-called concession.

Such a compromise tells us that the fares of certain routes, especially the long-haul routes, may be subject to a higher rate of fare increase at all times in the future, while the rate of fare reduction is comparatively smaller. In other words, with the strings that provide flexibility in adjusting fares within the permitted range of plus/minus five percentage points, it is absolutely possible that passengers who live farther away may be subject to a higher rate of fare increase but a lower rate of fare reduction. By so doing, the adjustment made will fall within the so-called permitted range of plus/minus five percentage points. Bus companies do not enjoy this flexibility. Deputy President, you should know this very clearly. The Secretary will certainly deny that this is not the case with bus companies as certain plus/minus percentage points are also provided for the fare increase of each and every route. But why was such an assurance not put down in writing? Very often, we understand that the range is plus/minus three percentage points. How can we explain this?

Deputy President, apart from the FAM, there is still the problem of sanitary fittings in female lavatories. The abandoned community groups, including people living in New Territories West, Tin Shui Wai and Yuen Long in

particular, have comparatively fewer community facilities. They have made repeated requests for more facilities. Various increases and reductions would be made in this merger, like fare reductions of the East Rail, MTR, Ma On Shan Rail and West Rail, with the exception of the Light Rail alone. Colleagues of the Democratic Party are still staging a hunger strike in protest downstairs today, because we wish to tell the Secretary that this group of people should not be abandoned and should receive equal treatment.

In considering whether or not the two railway corporations should merge, the Democratic Party has actually stuck to a single principle of preventing MergeCo from becoming an independent kingdom in future. However, in respect of future fare control, even the consultative role that we used to play has been removed. We would only be notified in writing. Free market and commercial principle are the reasons cited by the Government, and it appears that it has shown no respect for public interests at all. We fear that the resultant monopolistic situation may turn the merger into a repeat of The Link REIT fiasco.

We must not only look at what is in front of us because the so-called long overdue reduction has in return brought us "an eight no's future". What is meant by "an eight no's future"? There will be no fair competition, no regulation, no monthly pass scheme, no fare reduction of the Light Rail, no fare concessions for people with disabilities, no Shatin to Central Link, no radio broadcasts to listen to and no lavatories. Insofar as this "eight no's future" is concerned, considerable time had been spent on discussion and consistent replies had been given by the MTRCL, KCRC and the Government, which claimed that synergies of the two railway corporations were necessary as one plus one would yield more than two. While the long overdue reduction in fares is all we get, but we have to sacrifice in return the pursuit of our beliefs and the welfare to which we are entitled. Can the merger really bring about protection for the people? I believe it warrants Members' consideration.

Deputy President, Mr LEE Wing-tat and I will, on behalf of the Democratic Party, make some proposals concerning the property development rights of the new railway corporation, the establishment of a Railway Development Fund and the setting up of a Railway Penalty Point System. MergeCo must provide facilities to enable the reception of sound broadcast services, retrofit platform screen doors, include the existing performance pledge in the law, and remove the right currently enjoyed by the MTRCL under the Buildings Ordinance and the Public Health and Municipal Services Ordinance. In other words, we wish to have lavatories and the inclusion of a provision to

empower the Secretary for the Environment, Transport and Works to make regulation, requiring the provision of information on the fare level for the North-west Railway and bus services.

These amendments are indeed very humble ones. Deputy President, I hope Members will support the requests that have already obtained the support of various political parties and groupings in the Bills Committee, such as the provision of lavatories. I hope that in the votings that follow, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and the Liberal Party, which have previously indicated their support, will continue to support the Railway Development Fund. Though they may have different principles, our debates can continue.

The Secretary had once advised that the proposed fare stabilization fund would be carefully studied and considered by the Government, which is indeed an improvement. Why did I not suggest the establishment of a fare stabilization fund? It was because the long title of this Blue Bill has prevented us from discussing the regulation of fare. As such, Mr LEE Cheuk-yan and Dr Fernando CHEUNG were not allowed to propose their amendments relating to the regulation of fare during Second Reading and the Committee stage. I have therefore made an amendment in an indirect manner by proposing the establishment of a Railway Development Fund, which has a wider coverage. In fact, a Railway Development Fund Management Committee would be set up for this purpose with reference to the legislation concerning the Western Harbour Crossing and the Tai Lam Tunnel. Furthermore, from the \$7-odd billion average net profit to be generated annually from the property development projects of the future railway, only 3% (about \$200 million to \$300 million) should be set aside for the MTRCL to deposit as fund for railway development, with a view to enabling the community to actually benefit from the profit stability brought about by various property projects in a safe and efficient situation with stable fares.

Therefore, I eagerly hope that colleagues will strike a balance between the interests of business and the community through debates and other channels. If the interests of the public continue to be neglected, we really worry that the benefits or services for the community and passengers which we have been championing for down the years will be gradually eroded as a result of the merger and the excessive concern for the interests of minor shareholders in future.

Deputy President, I so submit.

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

MR LAU KONG-WAH (in Cantonese): Deputy President, the scrutiny of the Bill began a year ago. As it is not unusual for Honourable colleagues in this Council to take a year to scrutinize a Bill like this one, we do not find the period of scrutiny excessively long. However, the public or the Government has often reminded us of this. But why do we feel that the period has been long? Because the merger of the two railway systems was conceived years ago and discussions in society have continued for several years. This, coupled with the one-year scrutiny, has given some people the impression that the time spent has been quite long. However, under the leadership of the Chairman of the Bills Committee (I witnessed that the Chairman was working very hard and became quite agitated at times), the Bill was eventually submitted to this Council as scheduled for the Second Reading debate. This could not have been possible without the full co-operation of Members and their preparedness for negotiation.

The tabling of this Bill to this Council today is but a legislative procedure. Some subsidiary legislation will still be scrutinized and submitted to this Council. Of course, we have no idea whether shareholders of the MTR Corporation Limited (MTRCL) will give their blessing, as the matter has to be dealt with by the MTRCL. Yet, the first phase has at least been completed. We have heard from the public that it is their wish to see an early merger of the two railway corporations and, more importantly, an early fare reduction. Actually, transport fares in Hong Kong are very expensive. This is not only the feeling of the public, but also the real situation. I am not the kind of people who often resort to taking to the streets. Over the past years, however, a 10% fare reduction has been the most frequent slogan chanted by us when I took to the streets alongside the public. I believe it also represents the voice of the people over the years.

The first thing Secretary Dr Sarah LIAO told the public when she assumed office in 2002 was that transport fares appeared to be exorbitant. Now, five years on, I really hope to see fare reductions by the two railway corporations. Despite the previous concessionary offers made by the two railway corporations, concessions and fare reductions are two separate issues. No fare reductions have yet been offered by the two railway corporations. We earnestly hope that the public can, upon the rail merger, truly enjoy fare reductions they deserve.

This is justifiable. Furthermore, debates have been conducted on this matter over the past several years.

Of course, several major principles have to be considered during the scrutiny of the Bill: First, are the arrangements for the staff reasonable and acceptable? Second, insofar as fares are concerned, can public interests be protected under the future FAM which allows increases and reductions? These two major principles have all along been our major subjects of discussions. We have also been waiting for a response from the Government for quite some time. During our discussions, relevant issues, such as the Operating Agreement (OA), the Shatin to Central Link (SCL), and MTR screen doors have been proposed for discussion. Are these issues important? I only feel that these provisions and the process must be sorted out during the scrutiny of the Bill. Otherwise, we will be unable to give an account to the public should the Bill be passed in an unclear manner. This is particular so for the OA. Although some might think that issues pertaining to the OA are very trivial, such as the construction of toilets, and some might consider them minor issues, I will continue to express my views as often as I did. Matters considered trivial by government officials may be considered significant by the public as these are their daily necessities. Therefore, matters considered trivial by the Government can be matters of great importance from the angle of Members of this Council. We will fight for them no matter what. The same applies to the SCL. Deputy President, I believe you also recall that the conception of the entire merger plan originated from the SCL. Years ago, the Government made it a point to invite the Kowloon-Canton Railway Corporation (KCRC) and the MTRCL to bid for the SCL. Deputy President, I believe Members will still remember how the Government made all serious pretensions about this and the subsequent wastage of manpower and resources. Following its decision to award the construction of the SCL to the KCRC, however, the Government identified a number of irregularities and the problem of synergy as well. In the end, the Government opted for a rail merger. With the lapse of another several years, the MTRCL announced that the SCL would be, in principle, scheduled for completion in 2009, that is, two years from now. However, nothing at all has been achieved as the matter unfolds. Should this issue not be raised? We cannot let the SCL vanish without a trace. Therefore, we have to compel the Government to come up with a timetable. The Government will certainly reply that the actual timetable and relevant proposal will be revealed to the public within six months after the merger. We will definitely wait for the proposal.

Deputy President, when the Bill was first submitted to this Council, both the Government and Members of this Council knew it very well that the Bill had to be supported by the staff, commuters and shareholders before it could be passed. I initially felt that this could not be possible. This is very difficult to achieve indeed because the inevitable conflict of interests between commuters and shareholders makes it difficult for the Bill to be acceptable to both parties. Insofar as the staff are concerned, they will surely be assisted by their unions which will reflect their voices. The issue of shareholders will be handled by the MTRCL. As for commuters, who will represent them? The answer will definitely be Members of this Council. This explains why Members have to meticulously and cautiously scrutinize the Bill word by word and sentence by sentence.

Deputy President, I would like to say a few more words on the fare mechanism. So far, no objection has been raised to the FAM that allows increases and reductions. Nevertheless, this is just a matter of principle. The formula is also a principle. It is most important that the details therein can protect the interests of commuters. After the announcement of the mechanism, we held discussions and presented a lot of data. Having studied the relevant data, we found that we could hardly support the proposal in the absence of further protection or further concessions by the Government. Thanks to the concerted efforts of the Government and the legislature, a pledge that no fare increases will be introduced within two years was finally made.

Mr Andrew CHENG earlier mentioned a MTRCL advertisement for the MTR, which is considered by me an excellent advertisement. Chairman Dr Raymond CHIEN has publicly appealed for the expeditious merger of the two railway corporations for fares will have to be increased very soon. This message indeed serves as a reminder to all the people of Hong Kong. Even the Deputy President said earlier that she had mentioned this a year ago. However, Members have forgotten this, even though we all know this only too well, and neither will members of the public. Following the public reminder by Chairman Dr Raymond CHIEN, however, all members of the public considered that it would only be right that fares be reduced expeditiously. Of course, another fare increase several months after a fare reduction would definitely be unacceptable. We have heard a lot of voices like this one. Therefore, we have taken advantage of this opportunity to appeal to the Government to heed this piece of advice. In this connection, I think we have to thank Chairman Dr Raymond CHIEN for his message.

The failure to reduce fares in past years when fares should otherwise be cut and the suspension of fare increases in the years to come when fares can be raised might probably end in a tie. This is fair though. Two years later, in 2009, we will act according to the FAM. By then, Members will all agree with this. Should there be calls in society to raise fares in the coming year depending on the figures of the previous year, and should there be a sudden change in society in the following year, the matter will have to be treated as an exceptional case. This has been agreed by the Government too.

As regards the flexibility in upward and downward fare adjustments, the 10 percentage points originally proposed by the Government has later been reduced to five percentage points. I have been told by many people that they thought fare increases will not exceed 5%. This is actually not the case, only that the scope of flexibility cannot exceed five percentage points. This is extremely important. Members felt that a flexibility of 10 percentage points will impose too heavy a burden on residents in some areas. This is unfair and conflicts will arise. However, it seems unreasonable if the flexibility is reduced to zero. Sometimes, adjustment and flexibility are necessary. In my opinion, five percentage points are totally acceptable. However, I have to add that if certain less competitive districts, including such remote areas as Sheung Shui, Tai Po and Sha Tin, are subject to a greater flexibility in fare increases and if this is allowed to repeat year after year, the fare burden on such residents will become increasingly heavy accordingly. This is unacceptable to me.

Therefore, I must state it clearly here that we made a request that these data be submitted by the MTRCL to this Council every year for our deliberation with the Government. Of course, I understand very well that we do not have the deciding power, as the MTRCL is after all a listed company. Yet, it has been given an FAM that allows increases and reductions. However, the submission of these data to this Council is very important, especially in relation to the flexible adjustment of fares. If we find that the fares in certain districts are handled too flexibly, thus imposing too heavy a burden on the residents there, the Government as a major shareholder should relay the situation. I hope the Secretary can respond to this point later in the meeting. She must not think that the Government can forget everything once it has got the whole thing done.

Lastly, Deputy President, we certainly support the resumption of the Second Reading debate on the Bill today and hope that it can be read the Third time and passed. The voices and aspirations of the public have all reflected

their wish that fares can be reduced early and fares will not be raised in the coming two years. It is our earnest hope that this day comes very soon.

MR WONG KWOK-HING (in Cantonese): Deputy President, the Government announced a Memorandum of Understanding on the rail merger between the MTR Corporation Limited (MTRCL) and Kowloon-Canton Railway Corporation (KCRC) in April last year, and then preparations for the merger were launched. The relevant panel of the Legislative Council had held three meetings to discuss the merger proposal as put forward by the Government. Subsequently, a Bills Committee was formed in July last year to examine the Bill. The Bills Committee had held a total of 37 meetings which lasted altogether more than 80 hours. I have attended most of the meetings of the Bills Committee. With regard to the overall rail merger proposal, my concern, in my capacity as a representative of the labour sector, is the employment arrangements for over 10 000 staff members working in the two railway corporations. My other concerns include fare reduction and the fare determination mechanism, which is of direct interest to the public, the safe operation of the railways, the degree of user-friendliness, the need for improvement with regard to railway facilities, and the interests of socially disadvantaged groups such as people with disabilities, and so on.

First of all, I would like to talk about the staff arrangements. Since the rail merger proposal was announced, this Council has held several meetings to discuss the staff transition and work arrangements. Five labour unions from the two railway corporations were invited to attend meetings of the Bills Committee to ensure that the Government and this Council have a better understanding of the concerns of the staff. The greatest concern of the front-line staff is their remunerations and posts, such as job security, smooth transition, and whether or not their salary and fringe benefits will not be reduced as a result of the merger, and so on. As I demanded in the earlier part of those meetings, the Administration and the two railway corporations must clearly define the meaning of front-line staff as well as the degree of protection offered to them in terms of employment and other coverage subsequent to the merger. With regard to the concerns and aspirations of the staff, the Government and the two railway corporations have by and large responded positively. However, the most effective mechanism for resolving the issues existing between the management and the labour of the two railway corporations is, in my opinion, direct dialogue

and communication between both sides. To this end, my colleague, Mr KWONG Chi-kin, and I have been urging the Government and the two railway corporations to build up a platform for conduct of positive dialogues and consultations with the five labour unions of the two railway corporations. In this regard, they have by and large managed to keep their words. Presently, the two railway corporations and the labour unions are still working on the details regarding the transition and work arrangements of the staff. I hope the Government and the two railway corporations can display greater sincerity in working out the outstanding issues with the labour unions as soon as possible. Let us take the "Voluntary Retirement Scheme" as an example. Both front-line staff and non-front-line staff should be given the same right to make their choice. Is proper arrangement in place for contract staff as well, so that they will not lose their jobs as a result of the merger? Furthermore, certain so-called non-front-line staff, who may not be able to retain their original posts after the merger, will have to undergo retraining for the purposes of getting new job placement, and what measures will be in place to ensure that such staff will not suffer from a downgrading as far as their salaries, post titles and fringe benefits are concerned? What can they do in order to pacify the staff and put them at ease, so that they will render their full support to the merger?

Therefore, I very much hope that the Government and the two railway corporations can put their best foot forward and work out a solution by displaying greater sincerity in their consultation with the labour unions. Mr KWONG Chi-kin and I will continue closely monitoring the situations before and after the merger to see if proper communication can take place between the two railway corporations, the Government and the five labour unions; if a satisfactory result can be brought about through consultation; and if the Government and the two railway corporations can live up to the promises they have made to the railway staff and the labour unions.

Deputy President, with regard to fare determination and the FAM which allows for increase and reduction in railway fares, the Government has undertaken, right from the beginning when the rail merger plan was first announced, that the people will be able to enjoy fare reduction after the implementation of the merger. Depending on specific routes, the rates of fare reductions vary from 5% to 10%. It was indicated that the revenue generated from fares would be reduced by as much as \$600 million subsequent to the merger. It sounded as if the public would be greatly benefited, but upon closer

examination, major problems could be found in the FAM in general. For example, as I pointed out in a meeting held in November last year, FAM, which allows for increase and reduction in railway fares according to the rate of inflation and relevant indexes, would allow MergeCo to "automatically" adjust the rate of fare increase by a margin of plus and minus 10% for individual train stations in response to the competition posed by other modes of transport, which, taken together, is as much as 20%. We believe the rate is too large. Besides, the mechanism under which approval of the Executive Council has to be sought for application for fare increase by the two railway corporations will be abolished, and fares will be frozen only until April 2008, and so on. As such, the actual number of months during which passengers can enjoy fare reductions will only be five months. Fourthly, the Light Rail (LR) is not covered by the mechanism of the merger, and it does not have any fare reduction resulting from synergy.

With regard to these four arguments, I have strongly demanded improvement during the discussions. In a meeting held in November last year, I demanded that the Government should restrict the "automatic" rate of increase to less than 5%. Besides, the Chief Executive and the Executive Council shall continue to possess the final power to veto proposed rail fare increases in the event of serious economic recession or unpredictable adversities in Hong Kong. Further, there shall be no increase in rail fare within two years from the date the Bill is enacted. Progress was finally achieved "bit by bit" in the abovementioned three demands in a meeting held in April. The Administration finally agreed to restrict the "automatic" rate of increase to 5%; the Chief Executive in Council shall have the final authority to veto any proposed fare increases; and the freeze of fares will be extended to June 2009. I welcome the concessions made with regard to the three points mentioned above. However, while different kinds of concessions are now offered to passengers of the East Rail, West Rail, Ma On Shan Rail and LR by the KCRC, such as monthly pass and interchange discount, will these concessions continue to be offered by MergeCo? The Government and the railway corporations have not given any definite answer yet. Rail fare poses a heavy burden on passengers relying on the railways, therefore concessionary measures such as monthly pass and other forms of concession — whatever they are called, or even if they are referred to as promotions — are very important to them. Therefore, I have to remind the Government that it has the obligation to demand MergeCo to keep providing these concessions, and it must not give us an ambiguous answer.

Deputy President, the fourth question is about the fares of the LR. It is most unreasonable that the fare reduction does not apply to the LR. The two railway corporations keep arguing, loud and clear, that the rail merger will bring about a synergy effect which could benefit the passengers through economies. My question is: If those who ride on the MTR are passengers, what about those who ride on the East Rail? And what about those who ride on the West Rail, the Ma On Shan Rail, and the LR? Are they not passengers, too? Why do all railway passengers enjoy fare reduction, except those who ride on the LR? Why are people living in the northwestern part of the New Territories such as Tuen Mun, Yuen Long and Tin Shui Wai, who rely heavily on the LR, denied of any concessions? This is utterly unfair and unreasonable. It is an undisputed fact that residents living in northwestern New Territories have to shoulder high transport expenses, and it is most regrettable indeed that efforts are not made to reduce their burden in respect of expenses on domestic traffic. Deputy President, I would like to take this opportunity to appeal once again to the Secretary in the hope that the Government and the two railway corporations can reconsider the issue, and we very much hope that the Government and the railway corporations can continue extending all the concessions that are currently available to LR passengers subsequent to the merger, no matter how those concessions will be called. I hope I can hear some response from the Secretary in today's meeting.

Deputy President, railway facilities are a very important topic in the rail merger. When the MTR was built, they had a slogan: The MTR is Growing for You. The MTRCL has always promised "addressing your needs, safe, reliable and comfortable" in the slogans they use. Yet, user-friendliness has never been the MTRCL's concern. Railway facilities have been a topic of discussion in a number of meetings held by the Bills Committee, and that is also a topic of my concern to me and a number of Members'. No substantive answers have been given to issues as simple as platform screen doors, lavatories and radio broadcast, and so on. A resolution was passed in a meeting of the Bills Committee which demanded the MTRCL to install platform gates and platform screen doors as soon as possible. In fact, that is a reasonable request, because among the dozens of MTR stations in all spurs, only eight above-ground stations are not fitted with platform screen doors. With today's technologies, I believe the fitting of these platform screen doors is totally feasible. This has already been done at Sunny Bay station of the Disneyland Line, and there is no reason that the MTRCL should procrastinate any further. As regards the KCRC, given the long history of the East Rail, it may not be surprising that screen doors are not fitted. However, this is feasible at newly built spurs, and the general trend

is to have these screen doors fitted in the longer run. Therefore, it is hoped that the two railway corporations can stop using excuses for further procrastination. In the meetings, the MTRCL undertook to have screen doors fitted at all platforms throughout all lines by 2012, including those above-ground stations, whereas the KCRC undertook to have the same completed before 2013. I hope these two undertakings can be honoured as soon as possible. As regards toilets, that is about our basic needs. At present, the KCRC has provided these facilities, which is commendable. However, the MTRCL has kept procrastinating on all kinds of excuses. Eventually, they said they would submit a study report in six months. As a matter of fact, it is only natural that people have to answer the "call of nature", and it is imperative that the MTRCL should provide public toilets to the public. During the transitional period, the MTRCL has promised me that signs can be posted at strategic places in one to two months to inform passengers of where they can find public toilets, and I hope these notices can be posted as soon as possible. As regards allowing passengers to listen to radio broadcast, Hong Kong being an Asia's World City, I believe whether passengers are able to listen to radio broadcast is as much a responsibility of the railway corporation as a civil right of the public. It is about the image of Hong Kong as well, and there should be no cause for further procrastination on the part of the railway corporation.

(THE PRESIDENT resumed the Chair)

Finally, with regard to fare concession for people with disabilities, it is regrettable that the two relevant Directors of Bureaux have repeatedly failed to attend meetings held by the relevant panel of this Council. I very much hope that through the rail merger, the Government can provide a fare concession of 50% to the socially disadvantaged groups and people with disabilities.

Deputy President, the Rail Merger Bill is an important piece of legislation, and we must not, pardon me, President, rush it through. But time is running out now (*laughter*), and I have to rush it through hastily, although there is still so much I would like to say. (*Laughter*)

MS LI FUNG-YING (in Cantonese): Madam President, today, the Legislative Council will pass the Rail Merger Bill (the Bill). This Bill is related to the

livelihood of over 10 000 employees of the two railway corporations and it is also closely related to the daily lives of the people. In view of this, my speech will consist of two parts. In one of them, I will express my views on the protection of employees, in particular, basic employees, upon the merger of the two railway corporations from the perspective of employees' rights; in the other part, I will give my views on the services provided by the two railway corporations from the perspective of an ordinary member of the public who has to ride on the trains of the two railway corporations every day, in the hope of seizing this opportunity of the rail merger to promote improvements in the quality of railway transport in Hong Kong.

During the scrutiny of the Bill, one of my concerns was the transitional arrangements for employees. Early last month, when the scrutiny of the Bill was coming to an end, the two railway corporations formally signed an agreement containing 18-point consensus with representatives of five unions and it will provide job security to employees facing the rail merger. These safeguards can ease the anxiety of some employees about their future and is conducive to the rail merger, so I fully respect the decision of the labour unions. However, as a representative of the labour sector in the Legislative Council, I must point out that these safeguards cannot dispel my worries.

What I am concerned about is still the livelihood of these employees. Although the two railway corporations have agreed that the existing 8 460 front-line employees could be transferred direct to MergeCo without any screening, this undertaking only protects front-line employees against dismissal at the time of the merger, however, it does not protect them from dismissal by the corporation within a reasonable period of time. Concerning mergers and promises not to dismiss employees upon reorganization, I have a profound impression and distinct memories of them. Madam President, back then, when the Legislative Council was scrutinizing the Urban Renewal Authority Bill that would reorganize the Land Development Corporation into the Urban Renewal Authority (URA), the organization concerned also promised the Legislative Council that employees would undergo a smooth transition and their jobs would not be affected. However, even though the promise was still ringing in our ears, no sooner had the Legislative Council passed the Urban Renewal Authority Bill than the newly established URA began to lay off employees. Therefore, I have to remind the MTR Corporation Limited (MTRCL) after merger that it must not follow the footsteps of the URA.

The information submitted by the two railway corporations expressed the view that an estimated 1 300 vacancies will be generated in the first three years after merger due to business growth, and this number far exceeds the 650 to 700 posts affected by the synergy resulting from the merger. Therefore, the merger of the two railway corporations will provide more opportunities for professional development to their employees. With the continual expansion of the railway network in Hong Kong, it is only natural that new jobs will be created in the railway corporation, however, it is certain that the job nature and working conditions of the new jobs definitely will not be identical to those of the 600 to 700 jobs affected by the merger. I do not agree that the jobs affected by the merger can be disregarded on the grounds that future railway development will create new job opportunities. At least, the railway corporation has to let the affected employees choose either to remain in the corporation or leave after receiving reasonable compensation.

Even with regard to the front-line posts that the management and employees agree would remain unaffected, I can only say that this is only the bottomline and above this line, some basic rank employees may still be affected by the rail merger. For example, some of the feeder bus drivers of the Kowloon-Canton Railway (KCR) were hired on contract terms by the KCRC. The labour unions proposed that under the 18-point consensus, these front-line employees should be hired on continuous employment terms instead, however, the two railways corporations are only willing to promise that the posts of front-line employees on contract terms who were hired before 11 April 2006 and whose term of contract was more than two years would not be affected. I hope the two railway corporations will not draw a line at the 8 460 front-line employees and then do whatever they wish with the rest. I learnt that before the Legislative Council scrutinized the Bill, the KCRC already had plans to outsource the feeder bus service. Eventually, in order to avoid arousing discussion during the scrutiny of the Bill by the Legislative Council, the plan was put on hold. After the passage of the Bill and once this hurdle is cleared, if this plan is launched again, the feeder bus drivers of the KCR would be the first to bear the brunt.

Second, at present, the working conditions and prospects of these 8 460 employees who can transfer to the new corporation are still unclear because, to date, when the Bill will soon be passed by this Council, the two railway corporations still have not announced to employees their pay scales after merger

and the relevant information can only be provided in August or mid-September this year. The two railway corporations said that the pay scales of their employees would make reference to the market data on pay adjustments in 2007 and for non-managerial employees, if the new pay scales were higher than that at present, their pay would be adjusted upwards and if it was lower than that at present, their pay would only be frozen until the two became par. Apparently, this is quite a desirable arrangement, however, this so-called pay freeze is effectively a pay reduction because if salaries are not adjusted upwards, it will be eroded by inflation and the employees' living standard will drop. If the two railway corporations really want to honour their pledge that the pay will only increase but not decrease, the least that they can do is to adjust the frozen pay scales in line with inflation. Only in this way can it be ensured that employees' pay will not decrease in real terms.

At the moment, I cannot see any pledge made by the two railway corporations in this regard, moreover, they have not put in place any arrangement for front-line employees facing *de facto* pay reductions. Employees have no alternative but to accept the reality of a *de facto* pay reduction. What is more, employees have no idea how long this will last and when it will end. An even more important issue is that railway service in Hong Kong is a monopoly and there are no other data in the market that can enable the two railway corporations to make a direct comparison of the changes in staff pay. In other words, there is great flexibility in determining the pay scale after the rail merger. Generally speaking, in the past, the pay and working conditions of basic rank employees in public organizations were better than that of private organizations. There is a great deal of flexibility in making reference to the market pay trend when increasing pay. I am concerned that after the merger, the majority of employees of the KCRC will experience a rather long period of *de facto* pay reduction.

Madam President, next, I will express my views on railway service in Hong Kong in general. Railway transport is closely related to the life of the public throughout Hong Kong and the Government has the responsibility to ensure that railway corporations provide quality railway services charging reasonable fares. The original aim of the rail merger is to improve the management of the two railway corporations and upgrade service quality. This is an opportunity to put into practice people-based governance, but the work in this regard has been disappointing. Here, I wish to cite some examples.

In the past, when talking about the services of the two railway corporations, the senior management of the two railway corporations would often boast of the great capacity and punctuality of the two railway networks. However, they are only the minimum requirements in operating mass transit systems and cannot be equated with quality service. At present, when riding on KCR trains, the noise in the compartments gives passengers a very miserable time. The noise mainly comes from the broadcast of what the railway corporation calls Newline Express. The senior management of the KCRC put up a defence in the Bills Committee, saying that it was designed to provide the latest information to passengers, that according to a survey conducted by the KCRC itself, 70% of the respondents welcome this measure; and that the KCRC has also designated two silent compartments for passengers who do not want to listen to this sort of news.

However, this is not the truth. The information broadcast by the KCRC is only designed to increase revenue on the pretext of providing information to passengers. As a result, the environment in the compartments has deteriorated further. I have made enquiries with employees of the KCRC to understand the noise problem created by the Newline Express. They said that front-line staff constantly received complaints from passengers who said that the noise level was excessive. However, all complaints would not be heeded because the KCRC had signed an agreement with the relevant television broadcasting company. If the sound level was lowered, it was possible that the revenue can be affected. The claim that 70% of the passengers welcome the information broadcast in carriages and that there are silent compartments is only a pretext used by the KCRC to justify the worsened environment of the compartments. If the aim is purely to provide information to passengers and no pecuniary interest is involved, I think it is necessary to ask the KCRC if it can provide a tranquil setting in compartments as a general rule and whether there are no better alternatives than the high-decibel broadcast of information. For example, it is possible to follow the example of the MTR. Information is also provided in MTR trains but no sound is generated.

Here, I cannot help but praise the MTRCL. I think the MTRCL has been doing a good job in this regard. In view of this, as the rail merger is imminent, I am worried that the bad will edge out the good and the MTRCL will follow the example of the KCRC by introducing information broadcast in its train compartments instead of the KCRC trying to improve its service.

Concerning the service of the MTRCL, what makes passengers feel the most at a loss as what to do is when they feel the calls of nature — if passengers of the KCR need to go to the washroom, they can find it in any station and they can continue with their journey after relieving themselves. However, the duration of some trips on the MTR can last nearly an hour. If passengers have to go to the washroom half way on their trip, they are completely helpless. However, it is very strange that during the scrutiny of the Bill, the representative of the MTRCL in attendance said that if passengers had the need, they could request the use of the staff toilet. If staff toilets can be used by the public, why does the MTRCL cite various excuses in insisting on not providing public toilets in its stations?

Madam President, in the course of scrutinizing the Bill, the focus and the greatest contention was the fares and the FAM. After active lobbying by Honourable colleagues of the Legislative Council, the MTRCL eventually agreed to extend the effective period of the undertaking not to increase fares from April 2008 to June 2009. On the FAM, the flexibility of overall fare adjustment was reduced from a deviation of no more than 10 percentage points to a deviation of no more than five percentage points. All these are the results of the concerted efforts made by Honourable colleagues of the Legislative Council. Although a lot still leaves to be desired in respect of fare concessions, for example, passengers of the Light Rail will not benefit from this rail merger and the fare concessions for people with disabilities have not been put into practice, on the whole, I believe the rail merger is ultimately beneficial to society as a whole. As regards the inadequacies, I believe all parties will continue to make efforts so that rail transport in Hong Kong can benefit the general public even more. Thank you, Madam President.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, just when the Government is actively studying a fair competition law to counter market monopolization and price manipulation, today, we are about to create yet another giant of our own making in the market because we can almost be sure that with the nod given by Members in the pro-government camp, no matter what we say and even what amendments we propose, the Rail Merger Bill will still pass the Third Reading in the form proposed by the Government. The merger of the MTR Corporation Limited (MTRCL) and the Kowloon-Canton Railway Corporation (KCRC) will almost be sure to become a reality. It is only necessary for small shareholders to give their nod for this project to be completed.

Many members of the public believe that the two railway corporations should be merged at an early date and they will then benefit from reduced fares. We believe that, owing to this, quite a number of people are lambasting us, asking what this bunch of Members are after in spending so much time on scrutinizing this Bill, holding debates and proposing so many amendments. Why do they not pass this Bill early, so that the public can benefit as soon as possible?

Madam President, the public only know that a rail merger will lower the fares, however, do they know that after the merger, there will be a giant in the market that is not subject to regulation? In that event, it would be all right if the decision makers at the top have a conscience, however, if they do not, passengers will be at their mercy. A Cantonese proverb puts it most aptly, "Winning a candy but losing a factory". Are we pursuing a brief reduction to the neglect of future consequences? Some people may also ask what the public will stand to lose after the rail merger. Now, let me tell everyone what they will lose.

First, we will lose an excellent opportunity for the coffers to make money and get a windfall. According to the Memorandum on the rail merger signed between the Government and the MTRCL, the latter will spend close to \$7.8 billion to acquire the property development and management rights of eight property projects from the KCRC. How was this price calculated? This has remained a mystery. We have spent one year scrutinizing this Bill and in the first few meetings of the Bills Committee, we already requested the Government to provide the information, however, to date, we still cannot obtain any useful information. We still do not understand why the Government did not put the projects of the KCRC directly out to tender and credit the proceeds so obtained to the coffers direct. A surveyor estimated that the value of the eight property projects stood at \$80 billion and after deducting the profits of the developers and the cost of development, the Government could still receive tens of billions of dollars in land premium. Why did the Government decide to sell the rights to these eight projects and the opportunity to earn tens of billions of dollars of profit to the MTRCL for \$7.8 billion? Of course, the Government can say that doing so can insulate government revenue from the risks associated with the cycles of the property market. However, if we look at history, apart from the Asian financial turmoil and during the SARS epidemic, the property market in Hong Kong is always on the rise. In addition, given the established policy of the Government to prop up the property market, the risk involved in property business is quite low. Unless the Government thinks that there is a great

likelihood of Hong Kong being battered by a financial crisis or epidemic, otherwise, why is the Government so anxious and eager to sell the property development rights?

The second thing that we will stand to lose is that the transport market will be subject to less and less regulation and there will be a lack of competition because everything will be skewed in favour of the railway operator. After a new railway line has been completed, it is certain that all the bus and minibus services along the railway line will have to give way because it is totally impossible for buses and minibuses to compete with railways. These remarks of mine will surely win the approval of residents in the New Territories. The situation of the Light Rail back in those years and that of the West Rail and the Ma On Shan Railway nowadays are the same. In the past, in order to compete for new railway projects, the two railway corporations would try their best to improve their services. However, should the merger take place, competition would vanish immediately and without competition, the new railway corporation will have less incentive to respond to the demands of the public and passengers for service improvement.

In the face of such doubts, the Government may tell Members that there is no cause for concern because the Government has already entered into an integrated Operating Agreement (IOA) with the new railway corporation to monitor the operation of MergeCo. However, do Members know that this IOA in fact serves little purpose, that is, some people would describe it as having no substance. For example, we have conducted an opinion survey and the results indicate that over 80% of members of the public hope that the MTRCL can provide toilets to passengers and it is also found that nearly 80% of the respondents do not know that they can request the use of staff toilets. However, the results also show that it is indeed necessary for the MTRCL to provide toilets to passengers, however, the IOA makes no mention of what the new railway corporation intends to do in this regard.

In addition, although the IOA mentions supervising the performance of railway services, the standards of supervision only focus on whether the train service of the MTR is punctual, whether the level of safety is satisfactory, and whether any occurrence or serious delay has arisen. We are not saying that these items are unimportant, however, apart from the demands relating to safety and punctuality of train service and the provision of good facilities to customers,

we also have other demands on service, for example, it is important to provide toilets. Does this mean that a modern railway line should not provide better customer service or more comprehensive facilities? It is a shame that these aspects have not been adopted as benchmarks in evaluating service performance. Moreover, another major issue is that if we give the green light to the rail merger today, future railway operation will only be supervised through the IOA. In the final analysis, this agreement is only a matter between the MTRCL and the Government and the implementation, monitoring and amendment of any provision will only require a consensus between the Government and the MTRCL. The public and even the 60 Members of the Legislative Council do not have any power to intervene.

The MTRCL had misled the public into thinking that the Legislative Council deliberately slowed down the scrutiny of the Bill. In fact, most of the time spent on the scrutiny of the Bill was devoted to discussing the IOA in detail. We were aware that it was the last line of defence in monitoring railway operation and if this line of defence was breached, the new railway corporation can do whatever it wants. We know that the public yearns for a reduction in railway fares, however, I must clarify and tell the public that we do not want to disregard the long-term interests of customers for the sake of a brief reduction in fares. May I ask those Members who will vote in favour of the Second Reading of this Bill, in particular Members who took part in the scrutiny of the Bill, if they agree with the provisions in this IOA? If there are still debatable issues in it, based on what ground are they going to cast their supporting votes?

Therefore, apart from losing the opportunity to make money and a competitive environment in the transport market, the third thing that we will lose is the power to supervise or monitor the new railway corporation. The fourth thing that will be lost is the Shatin to Central Link (SCL), which was included on the agenda long ago. In 2002, the KCRC vowed vehemently that the SCL would come into operation in 2008, however, in 2003, the KCRC said that the extension of the railway line to Central would be deferred by one year. So far, what have we got? It seems that the target of 2009 is on shaky ground. The Government only agreed to make a timetable on the construction of the SCL available half a year later. At the mention of the word "timetable", what occurred to me at once was whether the SCL would end up just like universal suffrage in Hong Kong. The Basic Law stipulates that we will ultimately have universal suffrage, however, it is still a mystery as to when there will be

universal suffrage. Will the SCL meet the same fate? Will there only be a question mark hanging over it and a date for the final outcome will never be set? The Government can say that ultimately, the SCL will eventually and definitely cross the harbour and reach Central. But when will it cross the harbour? It is indeed very difficult to say.

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

Irrespective of the passage of the Bill today, we hope the Government and the railway corporation will launch the SCL project immediately. Failing this, will the Government please cite sufficient reasons to explain to residents along the SCL why the construction of the SCL does not proceed immediately?

What is the fifth thing that we will stand to lose? It is the FAM. The majority of people urge Members to pass the Bill because they want a fare reduction. However, it is unfortunate that many people do not know a fare reduction is sugar-coated poison and behind this, there is a very vicious FAM. The Civic Party and other Honourable colleagues will give a detailed explanation on this subject and I will only express my own views here in brief. On the face of it, just like bus companies, MergeCo will adopt an FAM that allows both increases and reductions and the fares will be adjusted according to the movements in inflation, labour cost and productivity. However, MergeCo will enjoy privileges that bus companies do not, that is, provided that the average fare increase remains unchanged, flexibility is allowed in making fare adjustments for each railway line. The Government originally proposed a flexibility of 10%, that is, assuming that the rate of increase is 2% under that FAM, the fare for a line can be reduced by 8% or increased by 12% at the most. Take the fare for adult Octopus Card users travelling from Tsuen Wan to Central as an example, an increase of 12% means that the fare will be increased from \$11.8 to \$13.2. Assuming that a person travels to work 22 days a month, his monthly transport fare will increase by \$61.6. Although this is a small amount, it is not so in the long run. Although at the urging of various political parties in the Legislative Council, the Government and the two railway corporations agreed to reduce the flexibility to 5%, as a matter of principle, we cannot agree with such a mechanism. Why can a corporation that makes \$7 billion to \$8 billion in profit a year, which is so much more than bus companies, still enjoy such a privilege?

I ask the Deputy President to consider why the Government still wants to see the passage of this Bill even though the general public will stand to lose so much as a result of the rail merger. In order to enable the passage of this Bill, the Government proposed that railway fares would be kept at the reduced level for two years. This can be considered a response to the demands of various major parties. However, may I ask smart members of the public if such small favours can make up for the foregoing important things that we will lose as a result of the rail merger?

True enough, modern management theories tell us that the rail merger can create synergy and pool together the administrative advantages of the two corporations or introduce the system of the more efficient corporation into so that efficiency of MergeCo can be enhanced. From this point of view, the rail merger is in theory the right thing to do. Every day, I also go to work by the MTR. I greatly appreciate the MTRCL because it is really a very efficient company, however, I cannot disregard the long-term interests of the public and the right of society and this Council to monitor the corporation just because of my appreciation of it and my hope for an early reduction in fare. Therefore, Honourable colleagues from the Civic Party and I, as well as the Democratic Party, will vote against the resumption of the Second Reading.

With these remarks, I oppose the resumption of Second Reading of the Bill. Thank you, Deputy President.

MR LAU CHIN-SHEK (in Cantonese): Deputy President, about two months ago, the MTR Corporation Limited (the MTRCL) and the Kowloon-Canton Railway Corporation (KCRC) jointly launched a publicity campaign to promote the advantages of a rail merger. The most impressive advertisement was the one that made an analogy of a "two-choice food with rice (barbecued pork and chicken)" to train fares. However, if the rationale of this example is to illustrate that a "two-choice food with rice" is more expensive than a "single-choice food with rice" but, after the introduction of the merger, we shall be paying less instead of paying higher train fares; thus, the example was used to illustrate how good a rail merger is, then I find such a comparison neither fish nor fowl. As a matter of fact, a person who orders a "two-choice food with rice (barbecued pork and chicken)" usually hopes to pay only one bill for his meal. It is not the same as what had happened in the past with the KCRC and the

MTRCL, compulsorily dividing a bowl of "two-choice food with rice (barbecued pork and chicken)" into one bowl of "barbecued pork with rice" and another bowl of "chicken with rice", and as a result, the customer was made to pay for two bowls of rice.

I believe it has been the demand and aspiration of the public for many years that the networks of the two railway corporations be integrated and the unreasonable levy of the additional "boarding charge" be abolished. Hong Kong is a densely populated place with limited land and a large population. As there is an increasing need for commuting between the urban areas and the New Territories, there is no need to have two different railway corporations operating two different networks, much less any reason why the public have to pay the additional "boarding charge". On the premise of rationalizing the fares, it is good in principle to introduce the rail merger, and its implementation has actually been long overdue.

Deputy President, I can recall that during the couple of years from the late '80s to the early '90s, the MTRCL infamously imposed a rush hour surcharge, citing "an excessive number of passengers" as the reason. In order to voice my objection to the levy of this extremely unreasonable surcharge, I openly stated that I would stage a protest by "blocking the rail track" with my own body. As it turned out, the rush hour surcharge was formally rescinded in 1993 due to enormous public pressure. As a matter of fact, whether one is making an interchange from the KCR to the MTR or an interchange from the MTR to the KCR, it makes up just one single ride as far as the passengers are concerned, so there is no doubt that the extra couple of dollars of additional "boarding charge" the passengers are made to pay now in making an interchange must be rescinded.

Deputy President, the rate of fare reduction the MTRCL will offer during the initial period of implementing the merger is mainly based on the abolition of the additional "boarding charge" passengers are made to pay at making an interchange, and therefore the rate of fare reduction is fairly limited. I must point out that, according to information provided by the Census and Statistics Department, transport expenses have become an increasingly significant item of expenses among the daily expenses of the general public over the past five to seven years. Hong Kong people, who have to meet huge amounts of daily expenses, are unable to improve their standard of living. The expensive fares of the two railway corporations must be one of the major contributing factors.

Deputy President, I believe Members may recall more than 30 years ago, when the MTR project first commenced, they had a slogan: "The MTR is Growing for You". However, people may ask: Are the construction and operation of the MTR really "for" the people? Does it really "benefit" the public?

Very often, the construction projects of the MTR caused great disturbances to people living in the vicinity. In some cases, some residents had to be relocated altogether. Yet, not only did the MTRCL receive full support from the Government in the construction of the MTR, it is privileged in being given the right of property development on top of the railway stations. As such, it is all the more reasonable for railway fares to be set at levels that are more affordable to the public, or else the slogan "The MTR is Growing for You" will just become some sort of "empty talk".

In the 10 years since the reunification, although basically the fares of the two railway corporations have not been increased, they have not been reduced either, not even at the time when deflation persisted several years ago. Not only did that impose pressure on the people's livelihood, it is in effect a fare increase on top of the original fare which is already set at a high level. It can be said that the two railway corporations have not been doing justice to Hong Kong people, and in view of the fact that the public has demanded fare reduction for years, they also owe the people an explanation.

Deputy President, Mr LEE Cheuk-yan and I have always believed that the MTRCL should further reduce the fares at the time of merger, regardless of whether the matter is considered from the perspective of people's livelihood or from the earnings prospect of the MTRCL. Fares for long-haul journeys in particular should be reduced by no less than 20%, whereas fares for medium- to short-distance journeys should be reduced by no less than 10%.

Deputy President, when it comes to the fares of the two railway corporations, it is worth mentioning that many organizations in society have repeatedly demanded that concessionary fares be provided to people with disabilities. There has been extensive support in society for the provision of concessionary fares for people with disabilities, and it also has very reasonable policy implications too. According to the findings of a study conducted by the University of Hong Kong, if similar concessions were offered by the MTRCL, the revenue generated from fares would witness "an increase instead of a

decrease". For this reason, I very much regret that there have not been any positive responses from the parties concerned.

I hope the Government and the MTRCL can take a more proactive approach in handling the issue of providing fare concessions to people with disabilities and work out a satisfactory solution at the shortest time possible. I must remind the Government that, regardless of the voting result of the Rail Merger Bill here in this Council today, the Government must, in the realm of public transportation services, properly address the aspirations for the provision of concessionary fares to people with disabilities; otherwise, the affected socially disadvantaged groups, the general public, and even Members of this Council and I will not "let the Government go easily".

Deputy President, in my opening remark I said I supported the merger in principle, whereas in fact I do have strong worries about whether MergeCo can really care about the people's livelihood. Although it is stipulated in the legislation that fare adjustments by MergeCo will be subject to a mechanism which allows for increase and reduction in railway fares, I have repeatedly pointed out on a number of occasions that the major considerations behind the FAM, which allows for increase and reduction in railway fares, devised by the Government and the MTRCL are inflation and deflation. As such, at times of inflation, the MTRCL will be able to increase the fares "justifiably or unjustifiably". There can be an absurd scenario where the MTRCL can increase the fares at a time when it has an annual net profit of \$7 billion or \$8 billion. Under such circumstances, how can we say proper protection is in place to safeguard the people's livelihood?

Originally, Mr LEE Cheuk-yan proposed an amendment which demands that any fare adjustments proposed by MergeCo will be subject to the scrutiny of the Legislative Council, which I totally agree and support. As a matter of fact, in 2000, when this Council examined a Bill on the privatization of the MTR, I also proposed a similar amendment calling for the monitoring of the fares of the MTR. Regrettably, the amendment was negative under the separate voting system. Mr LEE Cheuk-yan's proposed amendment was, unfortunately, turned down by the President on the ground that it went beyond the ambit of the Bill. It is really most unfortunate that a proposal that offers an opportunity to step up the regulation of railway fares in the wake of the merger does not even get a chance to be put to vote in this Council.

In fact, whether or not it is subject to the supervision of the Legislative Council, and whether or not the fares of the railway corporations are "supervised" or "non-supervised", in any case, if the fare adjustments are detrimental to the people's livelihood, or if the MTRCL tries to "break the wallet" of the general public at a time when the corporation is "making enormous profits", I believe it will inevitably provoke vehement public opposition and radical public reactions.

Deputy President, I have said in the opening remarks of my speech that I supported the merger in principle, but when we examine the present situation, we can see that many problems still remain unsolved:

- the regulation of train fares remains unsolved;
- the problem of having no regulatory control on the MTRCL remains unsolved;
- the problem of insufficient train fare reduction brought about by the merger remains unsolved;
- the problem of not extending train fare reduction to the Light Rail remains unsolved;
- the problem of train fare concessions for people with disabilities remains unsolved; and
- the problem of career protection for the staff of the two railway corporations, in terms of job security, remunerations and benefits, remains unsolved.

If all these problems are not addressed properly, someone who originally has wanted to vote for the merger might eventually be forced to cast his vote in another way.

Deputy President, I so submit. Thank you.

MR CHEUNG HOK-MING (in Cantonese): Deputy President, compared with other places, the public transport network of Hong Kong can be considered

sound. However, whenever mention is made of public transport fares, people will shake their heads because fares are expensive. All along the people have been making clamorous demands that the public transport operators should reduce their fares. Such demands come especially from those who live in the New Territories and who have been paying expensive fares for so many years. They want the public transport operators to reduce their fares sooner so that they do not have to spend as much as \$30 to \$50 a day on transport. About a year ago, the FAM which allows for increases and reductions in fares was introduced for bus services. This enables bus fares to be adjusted downwards by 5% to 10%. It can be considered the first step taken in the downward adjustment of public transport fares.

After this first step, I believe what the people of Hong Kong are most concerned about is the question of when the two railway corporations can reduce their fares. This is exactly the subject we have to discuss today. The Rail Merger Bill introduced by the Government states that due to the synergy effect of the merger, there would be room for the two railway corporations to reduce their fares. In other words, if the rail merger is successful, reduction in the fares of the two railway corporations would fit perfectly. If the merger attempt fails, the prospects of fare reduction would be grim indeed and no one knows when a fare reduction can take place and how the burden of train passengers can be eased and they do not have to pay expensive fares anymore.

During the discussions on the rail merger for almost a year past, the DAB took active steps to demand the Government that efforts be made to ensure that the people would benefit from the rail merger. The DAB opines that a very important goal is that the various concessions and measures offered by the two corporations to the public such as the monthly pass, the East Rail One-Month Pass and feeder buses, and so on, must not be cancelled as a result of the merger. This means that after the merger, the services available to the public will in no way be worse than those available now. This is a point I wish to mention in particular here.

In addition, if the rail merger is successful, all the people of Hong Kong, including those who live in Tuen Mun and Yuen Long, will benefit from the reduction of fares of the MTR, the East Rail and the West Rail. In Tin Shui Wai, for example, a ride on the West Rail to the Nam Cheong Station is \$14.4. And if a person takes a MTR train there to Tsim Sha Tsui, he would have to pay \$5.6 more using the Octopus card. If he wants to go to Central, that would

mean another \$10. In other words, he would have to pay some \$20 to \$24.4 in total. Deputy President, after the rail merger, fares can be reduced to \$18 to \$21.9. Therefore, it can be said that residents in New Territories West can get as much benefit as the other members of the public after the merger. Conversely, if the merger fails to materialize, no one knows when the public can pocket the benefits that are supposed to come with the merger.

After active steps taken by the DAB in fighting for the post-merger benefits as per various demands, we have succeeded in securing a pledge from the Government that fares will not be increased for a period of two years after the merger, that is, up to and until June 2009. By that time, fares can be adjusted according to the formula in the mechanism which allows for fare increases and reductions and the degree of flexibility permitted in fare adjustment will be lowered from 10% to 5%.

Apart from these results, the DAB will continue to press the Government to purchase more train carriages for the Light Rail to ease the problem of overcrowded carriages. We will also strive to ensure that existing fare concessions and services will remain unchanged after the merger.

Most of the passengers riding on trains in the West Rail to the urban areas use a monthly pass called the West Rail Discovery Pass. This Pass costs only \$400 and on weekdays when people go to work, each journey to the Nam Cheong Station costs only \$10 or even less. This is certainly cheaper than the promised reduction in fares after the rail merger. Hence, for most of the residents of Tuen Mun and Yuen Long, the most important thing about the rail merger is that the East Rail One-Month Pass and the West Rail Discovery Pass which is a day pass can be maintained long term. If these passes are cancelled, it is tantamount to depriving the residents of their benefits. On behalf of the DAB, I urge the Government again to retain the One-Month Pass and West Rail Discovery Pass.

The West Rail announced a week ago that the One-Month Pass and the West Rail Discovery Pass would be extended to the end of this year. We think that this is not enough. The DAB hopes that the Government can make a concrete undertaking here to extend the concession so that residents of Yuen Long and Tuen Mun do not have to worry that they will taste the bitter fruits of the merger before they can ever enjoy any benefit from it. As for the free

transfer service linking the Light Rail with the West Rail, as the two railway corporations have undertaken that this concession will remain in force after the merger, the residents welcome such a move.

However, of late the Light Rail cited the ground of operation efficiency and announced that two feeder bus routes serving the Tin Shui Wai area would be cancelled starting this summer. These are the routes 761P and the K73P. I must state here that the DAB strongly opposes this cancellation of service. This is because these two feeder bus routes came into existence after the Light Rail had restructured its routes and they were meant to be a compensatory arrangement for the people after the cancellation of route 761. Besides, many passengers have been riding buses on these routes. Therefore, in order to safeguard the rights of the people, we will never accept the cancellation of two bus routes.

Deputy President, the problem of fares in the Light Rail has indeed been a subject of much dispute in this merger exercise. Residents have always complained that fares of the Light Rail are too expensive. A journey of just one or two stations using the Octopus card would cost \$3.7. In recent years though there has been a drastic rise in population in Yuen Long and Tuen Mun, there has been no corresponding increase in the number of train carriages on the Light Rail. Often people cannot get into the crammed carriages during the rush hours. The DAB and various local organizations have for many years requesting meetings with the Environment, Transport and Works Bureau and the KCRC to urge the latter to reduce fares for the Light Rail, increase the number of train carriages, provide more feeder bus services and introduce monthly passes for short journeys.

Figures from the KCRC show that the daily ridership of the Light Rail is as many as 374 000 passenger trips. Of these 30% do not have to pay because they transfer to the West Rail. For the other 70% (that is, 260 000 passenger trips), they do not benefit from this merger. Therefore, many people are unhappy about this. The Government keeps on giving explanations, saying that for more than a decade the Light Rail has been incurring losses, so it would be hard to reduce the fares. The Government has neglected the fact that fares have remained excessively high for a long time and the residents should not be asked to pay expensive fares because of the management problems of the KCRC. So even if reducing Light Rail fares should not be made a prerequisite for endorsing

the rail merger, the Government must undertake to conduct a review soon and improve the services of the Light Rail. This includes increasing the number of train carriages and feeder buses, offering monthly passes for short journeys and reducing the fares, as a response to the reasonable demand of the public.

On the other hand, the DAB thinks that while we are fighting for the rights and interests of the citizens, the bundling approach should not be taken. Because in the end it is very likely that this problem of post-merger fares would make no progress and deny the public any benefit.

As a responsible and pragmatic political party, the DAB will never adopt such an attitude to handle problems which have a direct bearing on the interest of the people. It can be seen from overseas experience that the rail merger is in the interest of society. The privatization of the national railways in Japan shows that after merging the six railway companies in the country into one, the confusions that used to be a problem when the six companies co-existed were gone. Before the merger, train routes overlapped and they were numerous and chaotic; the stations were large in number with names that were so confusing. After the merger, this state of affairs was gone and the Japan Rail developed the bullet train which ranks the first in the world in terms of both speed and safety.

In Hong Kong, the MTRCL and the KCRC all have a major shareholder in the Government. However, the two corporations compete with each other and the result is that the development of railways in Hong Kong has suffered and a weird situation arisen in which some train lines do not seem to lead to any sensible destination. The best example of this is the siting of Nam Cheong Station away from the centre of Sham Shui Po. Although two years from now the Nam Cheong Station will be linked up with Tsim Sha Tsui East, the West Rail is presently like a dismembered worm that can neither access Hong Kong island direct nor extend to East Kowloon. After the rail merger, such irrationality in railway development will cease to exist because there would be no need for the two railway corporations to engage in any competition.

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

MR LEE CHEUK-YAN (in Cantonese): Deputy President, the Bill today will have very far-reaching implications. DENG Xiaoping said that Hong Kong

would remain unchanged for 50 years. If Members cast their votes in favour of the Bill today, it would really mean that nothing would be changed for the 50 years to come. Because it is clearly stated in this Bill that the KCRC will hand over its franchise to the MTRCL for a period of 50 years. We can just imagine what a huge impact this Bill will create. That is why I say that 50 years are closely tied to the voting button before each Member of this Council.

Just what would be in the mind of the Members when they vote? The four pillars to life are food, clothing, transport and housing. What is affecting us today is transport, the two railways which millions of people will ride every day. When we press the button today, we will be making an impact on the life of the people over the next 50 years. What is the significance of the voting today? It sounds all very nice in name, for it is called a merger. I do not think anyone here would oppose a merger of the two railway corporations. For me, I am absolutely in favour of the rail merger. But the question is: Under what kind of framework should this merger take effect? If this merger is effected under the framework of public transport service, it would have our full support. But we should note that the rail merger on this occasion is really an attempt to privatize the KCRC and nothing else.

Some years ago we all opposed the privatization of the MTRCL. At that time, I made myself very clear. I said once the MTRCL was privatized, there would never be any need to consider the interest of the people. This proves to be true. We have made dogged efforts since then to make our views known and accepted. We have spent the last five years arguing in favour of concessionary fares for people with disabilities. But there is nothing we can do to get this humblest of all demands accepted. The two Secretaries both expressed their sympathy and support but the MTRCL did nothing at all and nothing could be done about it. The Secretaries also said that the MTRCL was a privatized corporation and so there was no way the Government could meddle with its affairs. Everything was to be decided by its directors. Despite the fact that the Government is also on the board of directors, I think what the Secretaries meant was that the board of directors should make a collective decision and the Government would not exert any influence on it. That a trivial and humble demand like this cannot be accepted is attributed to the fact that the MTRCL has been privatized. Imagine this. Once the KCRC is also privatized and the rail merger is complete, as the MTRCL has a profit of some \$7 billion a year whereas the KCRC can only make some \$200 million to \$300 million a year,

therefore, after privatization, the result will be the KCRC being pressurized to make more money. But where can money be made? The answer is certainly from real estate and property. Just think, will it do nothing about the fares? Will it care nothing about the overall operation of the railway? These are areas where it will squeeze money. So what we discuss today is the problem of privatization resulting from the merger.

The Hong Kong Confederation of Trade Unions has all along been opposing the privatization of public transport services. This is because the result will certainly be striving to achieve the goal of profit maximization and public interest will certainly be sacrificed. It goes without saying that profits are definitely more important than people's livelihood. I bet it will definitely be like this. If it is not the case and if profits are not made the highest goal to achieve, the very justification for privatization is lost and the small shareholders will be disappointed. But I do not think it will do anything to let the small shareholders down, so it will only let the general public down.

Therefore, if we vote in favour of the merger, we must not raise any objection in future. Deputy President, what are the things we should not object? What has become of The Link REIT is going to happen to the two railways. I remember very well the situation when we discussed The Link REIT. While we opposed privatization under The Link REIT, many members from the DAB and the Liberal Party showed their support. But after showing their support for this privatization of The Link REIT, they opposed The Link REIT for its raising of rentals. Mr Tommy CHEUNG of the Liberal Party protested against the hike in rentals of restaurants. The DAB also protested the same. Why stage such a protest? The privatization of The Link REIT has been completed. Had they really taken into account the interest of the public, they should not have approved of the privatization at that time. There is no turning back once this is finished. There will be more hikes in rentals in the days to come. The tenants and the people will continue to be fleeced. There is no way these pledges made can ever be honoured. Because what it is after are simply profits.

We should not put the blame on The Link REIT. It is because after all, it was this monstrosity of a Legislative Council with half of its Members returned from functional constituencies and only the other half returned from direct elections that helped pass the relevant Bill. If we allow this merger Bill to pass, we would create another monstrosity and produce another abnormality.

Though it is said that the Government is still the largest shareholder, as privatization is complete, the corporation will put profits above everything else.

Deputy President, our greatest concern is the regulation of fares. This is because once privatization is complete, fares are bound to be raised. Of course, I do not mean that the situation is excellent now. Now the corporation has autonomy in determining the fares and the Government cannot intervene at all. Everything is in the hands of the MTRCL. As for the KCRC, it is also operated under commercial principles and the KCRC has the final say. After privatization, there is bound to be no regulation in this area. This autonomy in fares now becomes an FAM which allows for increases and reductions in fares. Deputy President, about this FAM, I have always thought that it would only be put into practice when the deflation is over. Since we are now at a time of inflation, fares can naturally be increased. People will ask if the Secretary is fooling them when they do not see any reduction in times of deflation but this FAM is in force when there is inflation now.

The MTRCL has never reduced its fares all through these many years on the ground of deflation, but when deflation is over, it came up with this fare adjustment mechanism which allows for fare increases and reductions. This is like a fare hike mechanism in automatic gears and fares are increased automatically each year. This sort of automatic mechanism has got a formula and that is: the inflation rate plus the wage index of the transport workers times 0.5, minus the productivity, then multiplied by 0.1. The productivity factor takes up only a very small part. In this case, when we ride on the two railways, we may have to pay 2% to 3% more each year, because the inflation rate and salary increase may be 2% to 3% in future. We cannot put up any opposition even though fares may increase by 3% every year, and there will be more increases to come. Mr LAU Chin-shek may have to come out and lie on the rails in protest and we may have to join him, too. Do we want this to happen? When we lie on the rails, the train may care nothing and run over us. The privatization process is complete and there is this automatic fare hike mechanism in place. We must think about this. This is an automatic fee hike mechanism and once the Bill is passed, there will only be automatic fee hikes in the future.

Earlier on I heard LAU Kong-wah say that the Government will discuss that by that time and he hopes that the Government can really have some special way to deal with the situation at that time. Things are considered settled once

they are done. The DAB should stop saying such nonsense. Just go ahead and vote for it if you want and stop saying such nonsense like they will fight for the people should that happen, hoping that the matter will be given special attention, and so on. These are only nice words said to deceive the people. Things done are considered settled for good. Who would heed the Government anymore? My guess is, if we talk about giving the matter special attention, who would give it special attention anyway when there is this automatic fare hike mechanism in place? Once we have pressed the button today, there will be no turning back because it is stipulated in the Operating Agreement. We will be talking about respecting the contract spirit. It is because of the existence of this Operating Agreement that the Government must abide by the contract. So once this Bill is passed today, we will never be able to say anything in future. We should not try to cheat people by saying that special attention would be given in future or it will be urged to do anything or we will fight for anything. Nothing can be done.

Deputy President, there is another thing which many people have mentioned and that is, instant fare reduction. When mention is made of fare reduction, many members of the public are glad to hear it and so am I. But just think about this. This fare reduction is only 10% for long journeys and about 5% for short journeys, and all I can say is that it is too little, too late. As I said just now, no reduction in fares was made in times of deflation and it is only until now that they talk about fare reductions. But the reductions are just 5% and 10%. The fact is, if only deflation is factored into it, it would be 5% to 10% already. When coupled with the synergy effect, the rate of reduction should be greater. We have all along been saying that the rate of reduction should be 20%, but there is no such rate of reduction even to date. When we first suggested that fares should be reduced by 20%, many political parties agreed. The DAB even said that the rate of reduction should be higher. But even when there is no reduction now, they will press their button in support of the Bill all the same.

Deputy President, this fare reduction is actually not enough at all. It comes too late and it cannot reflect that synergy effect. The worst thing is that the Government is acting in a most overbearing manner. How overbearing is it? If no support is given to this Bill and if this Bill is not passed, then there will be no fare reduction. My point is, fares ought to have been reduced when there was deflation, but why can they be reduced only after support is given to the Bill? The fares should have been reduced a long time ago. Now the Government has

bundled up the two, saying that there cannot be any reduction if the Bill is not passed. Things will only be worse, for even if fares are reduced, they may rise again very quickly. Fares may be increased next June. Raymond CH'IEN also said that fares might be increased in June, but that was postponed in order that Members could lend their support. This is to give the political parties a graceful exit in this matter. Since this graceful exit is given, so there will be no fare increases in the next two years. But we must remember that there will be an automatic fare hike two years later. So this fare reduction is actually a condition by itself and that is, Members must show their support before there can be any fare reduction. This is most unreasonable and it is like sugar-coated poison. We can just think, fares will rise automatically after the reduction and so we are straight in for a rough time.

Deputy President, another thing I think very unreasonable is about the Light Rail. The Light Rail is one of the railways and since the West Rail, East Rail, KCR and MTR are all parts of the two railway corporations, so should the Light Rail be and it should not be independent. I have always asked the Government this question. Will it go as far as making the Light Rail independent? Can the Government explain why there cannot be any fare reduction in the Light Rail at the same time? Why should the residents of Tuen Mun and Tin Shui Wai be discriminated against? The Government explains that it is because the Light Rail is incurring losses. If this logic is applied, the Light Rail cannot reduce its fares because it is incurring losses, but why can there not be a greater reduction in fares for the Lo Wu line? When this point is raised, the Government says that a holistic approach should be adopted in addressing this matter. However, when people ask why there cannot be any fare reduction for the Light Rail, it will only say that the Light Rail is incurring losses. Deputy President, what kind of logic is that? The people is obviously short-changed.

With respect to the point made by CHEUNG Hok-ming earlier that more train carriages for the Light Rail should be purchased, I am very much in support of it. But I have to say to CHEUNG Hok-ming that things are considered settled when they are done. It will not care about what you say when you ask it to buy more carriages. It is going to be privatized very soon and so how come it will buy more carriages. Route 761 in Tin Shui Wai has been cancelled. This proves beyond doubt that the reason is that it does not want to buy more carriages. We can therefore expect that it is not going to buy any more carriages. People using the Light Rail are also straight in for a rough time.

Another thing which worries me very much is the monthly pass concession. Now the monthly pass concession is offered by the West Rail. Every time when we examined the Bill, I would say to the Government that it would not be reasonable if no pledge is made to continue with the monthly pass concession for the West Rail long term. Now the undertaking given is only that it would be maintained until the end of this year. People will be short-changed again after that time for without the monthly pass concession, it would mean an instant fare hike by as much as 20%. If fares rise by 20%, it would be meaningless even if the fares are cut by 10% afterwards. The concession will make sense only if it can be maintained long term.

In much a similar way, nothing has been done nor any pledge made with respect to the half-fare concessions for people with disabilities. We hope that a reply to this can come from the Government as soon as possible, telling us when the two railway corporations will assume their corporate social responsibility and offer half-fare concessions to people with disabilities. Now as we talk about social harmony and integration, it is most imperative that something can be done in terms of transport. I hope the Government can make a speedy response and take proactive actions.

Lastly, I wish to talk about the issue of the employees. I think there is one thing which is most unfair to the non-front-line workers. As we know, the front-line workers do enjoy job security, but there is none for the non-front-line workers. The two railway corporations say that voluntary retirement packages will be offered to these non-front-line workers. But the timing of these packages is very bad indeed. Although the employees concerned may choose to stay or otherwise after the packages are offered, they may be told that they cannot be accommodated into any posts and so they may be transferred or demoted. If that happens, the employees may not be eligible for the packages. So I think such packages should only be offered at that stage instead of before it. That is to say, voluntary retirement packages should only be offered when the employees find that there is really no way out. Unfortunately, the present arrangement is that these packages are offered right from the start and if the employees reject them, they will not be able to take up these packages later when they find that there is nowhere they could go. This is very unfair. Many employees are worried about the future posts, but to date there is no answer for that. I know that the two railway corporations have been holding talks with the trade unions. We support the trade unions. I am aware that there has been

progress all along, but in terms of some key issues, I do not want to worry about the same thing and that is: things will be considered settled when they are done. I hope the two railway corporations will not go back on their promises, that is, they are coaxing the employees with all kinds of promises without committing themselves to any pledge, so in the end, the employees will find the protection for their jobs and fringe benefits all gone.

Deputy President, lastly, I would like to urge Members to vote against this Bill. Because once we vote in favour of it, this would be an outcome that cannot be changed for the next 50 years and the two railway corporations will definitely attach greater importance to profits rather than people's livelihood.

MR ALBERT HO (in Cantonese): Deputy President, I speak on the six reasons why the Democratic Party is opposed to the Rail Merger Bill.

First, we do not wish to see one railway corporation become the dominant market player in the absence of any competition and creating a monopoly. Second, we oppose selling assets at dirt-cheap prices and the transfer of benefits. Third, there is flexibility in the new FAM which is unreasonable, causing unfairness and enabling it to evade monitoring by this Council. Fourth, as the Light Rail will not reduce its fares, so this is clearly discrimination against the some 1 million residents in Tuen Mun, Yuen Long and Tin Shui Wai. Fifth, the development of the Shatin to Central Link is delayed for no justifiable reason and this is unfavourable to the future railway development in southwest Kowloon. Sixth, the refusal to make some reasonable performance pledges such as offering fare concessions to people with disabilities, introducing a demerit points system for operational blunders and providing toilets for public convenience.

Deputy President, apparently, the rail merger has more demerits than merits. We must never focus our attention only on those short-term advantages to the neglect of long-term adverse effects. Moreover, these so-called advantages should not be seen as blessings which make us happy. This is because the fares have carried a deflation factor of as much as 12% which has been accumulated over more than 10 years past. The two railway corporations were duty-bound to make a reasonable reduction in fares a long time ago. But they refused to do so and this is wrong. When they agree to reduce the fares

now, it is only a matter of course. We must not regard this move as an advantage and so accept this bundled offer from the Government. This is in fact blackmail in disguise to force the people to accept this rail merger.

Deputy President, the Government has always stressed that a merit of the rail merger is the synergy effect that it brings. But in fact, this synergy effect would only be very limited and what it brings may only be about \$450 million a year. On the other hand, this will bring a host of other problems. As pointed out by the trade union representatives, the ones readily threatened are the employees and these may be the front-line workers or the management staff. Would their prospects and jobs be threatened in any way? Because one of the direct consequences of this synergy is that the size of the management and even that of the front-line staff may have to be trimmed to save money and cut costs. Therefore, the employees may lose their jobs. This is the first price to be paid.

Another more important point which we should be concerned about is the question of whether or not competition will not be affected as a result of the rail merger. I do not agree with what Ms Miriam LAU has said at all, that there is no competition whatsoever between the two railways. I think citing one example will be sufficient to show that her view is wrong. When there was a tender exercise for the Shatin to Central Link project, both railway corporations engaged in fierce competition to bid for the project. This shows well enough the importance of competition. For if not, the dominant market player will devise a lot of terms and conditions and the Government may find it difficult to pick the best party out of the competing bidders.

Even if the routes of two railways do not overlap, there are differences in the operating principles and corporate culture between them. More importantly, when there are new routes such as the South Island Line or others, as a matter of principle, new bidders can be found to undertake these new projects and there can be competitive bidding. The Government can then pick a better operator or builder. On the question of introducing overseas railway operators to come here as competitors, if there is only one railway corporation, how can these foreign operators compete with that single railway corporation who knows best the local conditions and is the dominant market player here? If both railway corporations exist, the foreign investors may consider forging a strategic alliance with one of them and so competition can be fostered.

In theory, bus service is not that competitive, for each bus route has to be put up for individual tender. In this way overlapping is avoided as much as possible. If merely synergy instead of competition is considered, there can just be one bus company in the entire Hong Kong. Why not? On Hong Kong Island, is it not true that there used to be two bus companies but now there is only one? Just ask anyone who lives on Hong Kong Island, "Has bus service ever improved or not? Now only one bus company mainly operates the bus routes on Hong Kong Island, have services been improved?" The answer is no. Now with respect to bidding for bus routes on Hong Kong Island, even though there is a public tender exercise for every route, the existing operator would be given priority and it may even be the only party to be considered. However, the Government may also have some bargaining chips in that if these companies do not do their job well, or if the conditions are too unfavourable, other companies may also stand a chance.

Often times when the Government does not want to open some new routes, we will make our influence felt. This means if the Kowloon Motor Bus does not want to do it, the Citybus or the New World First Bus may be called in to provide the service. Why not? These companies are under some sort of pressure too. It can be seen that competition is important. I think that with the rail merger, at least the competition between the two railway corporations will be lost. This is especially the case when it comes to the building of railways in the future. In view of this, I have doubts about the basic rationale for the rail merger.

Second, on the question of fares. It is true that the FAM which allows increases and reductions has its merits and objectivity, but we think that the greatest problem lies in its flexibility in increasing or reducing the fares by five percentage points. At first it was even said that it would be 10 percentage points and that is really absurd. On the flexibility of increasing or reducing fares by five percentage points, the public officer concerned explained to us in the Bills Committee that this was to give greater flexibility to the railway operator to compete with other providers of transport services. In other words, there can be lower reductions when there is competition and when there is no competition, the rate of increase may be greater. The remote areas came to my mind at once and this is especially true in the case of New Territories West. There is really no competition as such there and the reason why the Light Rail has been refusing to cut its fares is precisely the absence of competition. The area is exclusive to the Light Rail and so it would really be terrible if the

company operates on such a mentality. What will happen in future? As the popular saying goes, "the poorer one is, the more problems he will run into". In the absence any competition, there may be greater increases in fares in these districts.

Mr WONG Kwok-hing said earlier that he would not allow such things to happen in future. Honestly, what is done is considered settled. What can we act on to monitor the Government? In the future, when this FAM is in force, each time when fares are increased or reduced, or when this flexible discretion is exercised, it will no longer have the responsibility to consult the Legislative Council. In view of this, I am uneasy about the future arrangement in fares.

Another thing is that right from the beginning, many Members raised questions in the panel meetings on the suspected selling of public assets at dirt-cheap prices. These assets can be divided into two kinds. The first one is those properties above the stations, including the shopping malls, the construction of which is completed. As far as I know, these shopping malls, at least those few in the Tuen Mun district, are managed entirely independently and they have nothing to do with any railway operations. There is no need to keep the ownership in the hands of the railway corporation. Some of the shopping malls in other districts have been sold and so they will not be managed by any management company designated by the KCRC. In these circumstances, why can these shopping malls not be handled according to the normal procedures for the sale of government property as prescribed by the Financial Services and the Treasury Bureau? Why can the completed shopping malls not be sold by public auction or tender?

Now some surveyor firms have accused the Government of selling its properties at dirt-cheap prices and this sale of assets is meant to be an incentive to lure the small shareholders of the MTRCL into accepting the merger. How would the authorities respond to this? Some people also point out that the authorities have made a wrong valuation of the assets concerned. But the Government insists that the valuation is correct and reasonable, and it points out that there are many experienced surveyors in the Government Property Agency. The Government cites the figures it has compiled while many surveyors in the private sector have expressed disagreement with the Government. Since this is the case, why can these properties not be put up for auction under the well-established procedures used by the Government which are fair, just and open? This is the first point I wish to make.

Second, on the property above the stations, in fact, when the Mass Transit Railway Ordinance was passed in 1998, I made the greatest query on behalf of the Democratic Party. We thought that the right to develop property above the stations should be decided by open bidding and the best way should be by public tender or auction. At that time, the Government responded by saying that the valuations were very accurate and objective. However, it also said that if the MTRCL was not given the right to develop the superstructure above its stations, it would be unable to operate as there would be a lack of funds for its development. This is an admission that property development was used as a means to subsidize the operations.

Deputy President, I do not object to the Government supporting this kind of capital-intensive development of railways, but this kind of support must not be made in the form of a transfer of benefits which is dubious. I think the Government may inject capital when needed and the money can be turned into shares. This would be the simplest way and there are many manners in which this can be done. The railway may be built by the Government and operated by another party. Why not? I will definitely oppose any arrangement which is dubious. This is especially the case now when the railway corporations are privatized and there are lots of private shareholders. If the authorities adopt such an approach, it will lead to a transfer of benefits which is dubious and it would contravene the principle of handling public assets in a fair, just and open manner.

Besides, many figures are not laid before the Legislative Council on this occasion and although the Government says that Members may examine such figures at a meeting of the Bills Committee held in camera, but for the many Honourable colleagues who say that they are satisfied after reading such information, I doubt if they really know what they have read. Do they have the professional training required? Do they know how to make a valuation? Have they received any professional training in financial analysis? I therefore think that they must never claim to be experts. They can act like pro-government Members if they want to, but they must never claim to be experts.

Deputy President, the last thing I wish to discuss is also something which the Secretary knows very well and it is an issue to which I would have the strongest reaction. This is about discrimination against the residents of Tin Shui Wai, Yuen Long and Tuen Mun. In these districts, if the Light Rail reduces its fares by 5%, it may appear to be not that much, but I would like to

point out that these districts are the remotest ones in Hong Kong, where the residents have the lowest income and they are the poorest. These districts have the least community facilities and job opportunities. If the residents there want to work in another district, they will have to pay the most expensive transport expenses. The Secretary often says that concession is available to people who take the West Rail to go to Kowloon. But two thirds of the residents there do not often travel to Kowloon. They are the housewives, the pupils, the unemployed and the elderly, and they do not enjoy any concessions. On this occasion, riders of all the railways in Hong Kong including those for the entire East Rail except the Lo Wu line will enjoy concessions. And these concessions are offered even when losses are incurred. Why then are the residents of Tuen Mun, Yuen Long and Tin Shui Wai so discriminated against? Why is the Light Rail service in these districts so poor with insufficient train carriages and overcrowded platforms? Even when members of the public get furious, the Government refuses to build screen doors to protect them.

Deputy President, these are what make us feel so disgusted. What is more disgusting to me is, apart from the heartlessness of the Government, there are some of our Honourable colleagues who despite their often saying that they will fight for the grassroots and cry out for justice, they fail to utter a word when mention is made of the problems in Tin Shui Wai. Mr LAU Kong-wah is one such example. It may be that after listening to the official speaking on behalf of the Secretary on that day, he might have thought that he had fought for the residents with success. Mr WONG Kwok-hing often stands up for the grassroots and workers, but why does he not give a fair comment on this? Mr CHEUNG Hok-ming comes from that geographical constituency, would he still have the face to meet the people there? Those DAB Members voted against the rail merger together with us at the district level, why are they so shameless and callous when they speak like this today?

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, the Rail Merger Bill is the Bill which I feel most unhappy about during these many years in which I have taken part in the deliberation of Bills. Deputy President, why is that so? Because I think that in the whole process on this occasion, the attitude taken by the Government and the MTRCL is so overbearing that they are bent on imposing their will and they are forcing their way through things. They take no regard of the function and role of this Council. On top of these, they are putting

hurdles up for us everywhere and even if we want to make the Bill better, there is no way we can do it. I really regret very much because of this.

Both the Government and the MTRCL are hard-selling on this occasion. What are they selling so hard? This is the idea that "a combo could mean less" as they say in effect and that is where so much publicity is centred around. We all know what that means. Just think, we are doing our best to seek a better way out and we are not dragging things on. But what the authorities are doing is that they are launching this publicity campaign of "a combo could mean less" to force us to arrive at a speedy solution. Luckily some members of the public asked me — I think the people's eyes are discerning — they said, "LEUNG Yiu-chung, what does that fare adjustment mechanism which allows for increases and reductions have to do with the merger?" This fare adjustment thing can be done at any time and what does it have to do with the merger? Well, on the question of fare reduction, it can also be done any time and so how is it related to the merger?

Deputy President, how could I answer these members of the public? I told them that the only thing which was related was that should there really be a merger, there could be a greater rate of reduction. However, Deputy President, this is not the case. Why am I saying this? As Mr LEE Cheuk-yan has said earlier, we can see that previously we had six years of deflation, but there was only a freeze of the fares. It was a *de facto* increase because there should be a reduction in fares in times of deflation. But there was no such reduction in fares. Well, with this merger now, when coupled with the synergy effect, should there not be a greater amount of reduction? So as I told these citizens, there is really a relationship here and this is how they are related.

Most unfortunately, this is not what the Government is thinking, nor is it what the MTRCL is thinking either. They are only saying that if we do not pass the Bill quickly, the people will stand to lose as there can be no reduction in fares. In this way they are forcing us. Is this fair? Is this reasonable? On fare reductions, some Members have just mentioned a point. I am also a Member from New Territories West and I do share what Mr Albert HO feels. Why does the Light Rail not reduce its fares when the MTRCL and the KCRC are doing so? Mr LEE Cheuk-yan has just said that the Government thinks that the financial position has to be considered on its own and since the Light Rail is running at a loss, there can be no reduction in fares.

Deputy President, it would be terrible if we look at things with this logic in mind. Will this also apply to the bus routes run by the Kowloon Motor Bus or other companies? Should a bus route incur losses, does it mean that fares for that route can be increased or no reduction can be made? Is this the logic to go by? The bus companies can say in future, "What should be done about those bus routes which do not make money? Because not all bus routes make money, and some of them are incurring losses." I think this logic is not fair at all. For we have to look at things as a whole, but now the Government is isolating each part and looking at the parts individually rather than the whole. As the Government is doing this, no wonder many people say that the officials can have whatever they want. They can say what they like. Now this does not only apply to officials, the listed companies have become overbearing and they are saying what they like and they are doing what they like. So be it, what can people like us do? This is yet another example illustrating why I say that the role and function of this Council are being trampled upon.

When we deliberate on this Bill, we want to perfect it as much as we can. But the authorities are putting pressure on us by invoking the idea of a fare reduction. On this fare reduction idea, what they are doing is they will reduce the fares in places they like and if they do not feel like it, then there is no reduction. They are in control and there is no respect for anybody at all. No importance is attached to the living of residents in the districts concerned. Mr Albert HO has said that the MTRCL and the Government are discriminating against people living in remote areas. I wish to add that not only is there discrimination, but there is also disregard as well. What are being disregarded? Their genuine needs and difficulties in living. Now even the Government feels that a travel allowance should be paid out to these people. This makes us see where their problems lie. Why do the parties concerned not look into this? Is this not disregarding their needs?

Deputy President, apart from problems in this aspect, the residents are also worried about another problem that has been mentioned by many Members already, that is, it is going to be a replica of The Link REIT after its listing. We all know that The Link REIT affair has made a lot of people so very much furious because a lot of things have changed and they are not what they used to be. The result is that people can no longer take part and they cannot make their views known. The Link Management can do what it likes. The same thing is going to happen to the new railway corporation after its listing. The Government or the MTRCL may deny this and they may say that this is not a full

listing. The Government still owns a large portion of the shares. The case is different from The Link REIT and they cannot be compared. Deputy President, it may be the case now, but we have no guarantee that it will remain the same in the future. It can be said later that all the shares can be sold. No one knows and there is no guarantee that it will not happen.

Besides, even if the Government will not sell all of its shares, we can see a phenomenon with the MTRCL in the past. What is this? It is no matter what we say, like demanding that half-fare concessions be given to persons with disabilities, it would say that the interest of shareholders must be given consideration. Now the Government is the major shareholder, it is still saying that it has to consider the interest of the shareholders. This is no different from the case of The Link REIT. Though everything it owns in The Link REIT has been sold, it also says that the interests of shareholders must be considered. This is what we see now and we will certainly see more of that in the future. The shareholders' interests will have to be considered and fares will be increased when it is felt that there should be an increase. It can do whatever it likes and so there is nothing we can do about it. The spectre of The Link REIT still looms large and it is there to stay and we cannot pretend that it is not there.

Just now I have talked about the transport concessions for persons with disabilities. I think the Deputy President knows very well that I have for five years in a row proposed a motion debate on this topic. Only in one of these years, because of a whimsical turn of my mind that I added something about the CSSA that the motion for that year was voted down. But other than that, all the other four motions were passed and all Members agreed that concessions in fares should be offered to persons with disabilities. I still recall the first time when I moved the motion — I hope the Secretary would not mind my saying that for the third time now — the Secretary had assumed office for just three months, and when she made the response, she was moved into tears because she thought of a friend of hers who was disabled and she said that she really wanted to do something for persons with disabilities.

These remarks of the Secretary still ring fresh in my mind. Unfortunately, Deputy President, I have to say that six years have passed and with respect to the half-fare concession issue, I do not see the Secretary do anything for persons with disabilities. I have looked up the records and found that in the first few years, there were less than three occasions each year on which a formal meeting was held with the transport operators. Deputy

President, can we say that this is doing the best of what can be done? Up to now, what has the Secretary done? Nothing. No progress at all. This is very much to be regretted and it is really saddening. The Government has been urging for harmony and integration between the able-bodied and persons with disabilities. How can this goal ever be achieved? The Government does not want to think about it, nor does it want to do anything.

We know that many foreign countries have laws which foster the social integration of persons with disabilities. In the United States, there is a law called The Americans With Disabilities Act which stipulates that public transport agencies shall offer concessions to persons with disabilities. It is also stipulated that when necessary, personal assistance must be offered to persons with disabilities for their boarding and alighting from the means of transport concerned, failing to do so is considered a breach of the law. In addition, places like Beijing, Shanghai and Taipei all have similar laws which stipulate that fare concessions shall be offered to persons with disabilities. Taipei is even more progressive in this aspect in that even the person accompanying another person with disabilities is also entitled to the concessions. It can be seen that these places have done so much to care for persons with disabilities and their needs of integrating into society are given much consideration.

When we deliberated on the Bill, we had a committee which was specifically tasked with fare concessions for persons with disabilities. A representative from the Equal Opportunities Commission was invited to present the Commission's view on that subject. It turned out that the Commission said repeatedly and strongly that this is now the time for it. The rail merger is the occasion when such fare concessions should be written into the Operating Agreement. This is what a quasi-public agency has said in public and it has said more than once that it should be done. Have the MTRCL and the Government heard this?

I asked how the Government would respond to that. It said that that was what they thought but the Government had its own views on that. This means you can say what you like, but it will do what it wants. This is poles apart. The Government just will not care. This makes us feel very sorry. How can we believe that something better can be seen? We saw the Secretary shed her tears for the first time in this Chamber. I think she was speaking her mind and she was sincere. But to be frank, so what? To be true and sincere is not everything. There needs to be action. But what actions can we see?

The thing about this Bill which I regret so much concerns what is found in the Disabilities Discrimination Ordinance which Dr Fernando CHEUNG and I have proposed separately — sorry, it should be the amendments on offering half-fare concession to persons with disabilities. Unfortunately, I cannot move my amendment because of some technical problem and Dr CHEUNG's amendment is ruled out by the President. So, like mine, his amendment cannot be laid before Members for voting. This is really sad.

Anyway, we have done what we can do. What about the Government? I think the only thing that the Government has done so far is to commission the Social Science Research Centre of the University of Hong Kong to undertake a survey to see what impact it would have on the MTRCL and the KCRC should half-fare concessions be offered to persons with disabilities. Deputy President, the findings obtained are really beyond our expectations and that is, there would be an increase by 103.57% and 101.52% respectively. In other words, should this half-fare concession for persons with disabilities be introduced, not only will these two corporations not run into losses as claimed but they would also make profits. What they are doing now is that they are not willing to do it even though it would mean profits for them. I do not know why and I fail to see why. The only thing I understand is that they are discriminating against persons with disabilities and they are saying one thing but doing another. I can only explain it this way. Otherwise, I will never see the point. Also, the Government allows some independent organizations and companies to grow in power and say whatever they like, and yet the people cannot voice their opinion.

Deputy President, although Dr Fernando CHEUNG and I are unable to propose our amendments to this Bill in the Chamber today, I will return when the Council resumes in October. By then I hope the Secretary will say something from the bottom of her heart and give us a good reply. Otherwise, the motion will have to be proposed for the seventh time.

Deputy President, about this Bill, apart from those aspects which are so depressing, as a member of the workers group, the Neighbourhood and Workers Service Centre, I am very concerned about the problems faced by the employees. Although there is now the voluntary retirement scheme, it is doubtful that all the employees can benefit. I heard from the employees something about the number of non-front-line employees affected. At first, it is said that at most some 600 people would be laid off. But as people are talking more about it, this

maximum number may turn out to be the minimum number, that is, at least this number of people will be laid off. Not only would they be laid off, they may also be forced to be laid off. Because the corporation may say that the voluntary retirement scheme is launched but why these people do not take up the offer. And so they will be forced to accept.

Deputy President, as someone from a workers group, I hope very much that both the MTRCL and the Government will note that the employees should have the right to make choices and they should not be forced. The question of whether they should stay or go should be a matter entirely of their own decision and they must not be compelled to make it.

Deputy President, I so submit.

MR RONNY TONG (in Cantonese): Deputy President, we have spent about 10 months deliberating on this Rail Merger Bill and many Honourable colleagues have quite a lot of grumbles during that period of time. This is because sometimes there would be meetings as long six to eight hours in one day. Some Honourable colleagues thought that the time was not enough. The Chairman of the Bills Committee said that it would be most preferable to have a meeting every day so that it would be in time to get the Bill passed on 6 June.

Actually, the problems found in this Bill cannot hope to be solved in a matter of time. This is because, as we see it, the Bill does not have any technical problems that cannot be overcome. For those technical problems we encounter, if only we could hold more meetings and spend more time, they can be solved. However, when we run into some principles or policy issues, and if the Government will not give way in these principles and policies and hold on to them firmly, it would be futile to hold long meetings. The problems will simply not be addressed.

From the outset the Government uses what we call the "carrot and stick" tactic. That is to say, something is held out to entice you but on the other hand, you will be scolded. This is the way this legislative process is handled. The most useful chip in the hands of the Government is fare reduction. This is of course something the people will love to hear. But if we sit down and think about it, we will ask, "How is fare reduction related to the merger? Is the

Government not saying that the merger will lead to lower costs and so there would be more reductions to come or that the fares can be maintained at a certain level?" This is not what the Government says. The Government is saying that the MTRCL has said from the very beginning that no fare increases will be made for a period of two years and this is to be dated back. How is this related to the merger?

The attitude of the Government is such that it is treating the legislative process like shopping in the market where a lot of bargaining is to be done. Deputy President, if we are bargaining over some fair price, we may accept this albeit with reluctance, even as this is actually quite an insult to the Legislative Council and the legislative process. But this is not what things are. The reduction in fares mooted now should have been made a long time ago. The situation now is that over the years the MTRCL has taken a lot of money from the pockets of the people of Hong Kong and now we are only asking for our money back. It says that we can have our money back all right, but we must first agree to the merger. What have the people got in such a process? In our opinion, this sort of bargaining is all very disappointing.

Another thing which is very disappointing is that whenever any public facility is to be privatized, it would cause a lot of controversies. The greatest issue as a matter of principle is whether or not the Government has the responsibility to provide public facilities which are reasonable and useful to the people, and whether or not this is the basic responsibility of the Government. If the Government washes its hands clean in public facilities and if it just hands them over to those so-called business entities which are run entirely under commercial principles, then is the Government not shirking its responsibility?

Some Honourable colleagues say to me, "Ronny TONG, you are wrong, this is not privatization, for the Government is not selling it." However, if Members look at the situation as it is, they should know that after discussions in the past 10 months, this is no different from privatization. Despite the Government's saying that it holds more than 70% of the shares of the MTRCL after all, the only thing it says is that it would not handle this problem in its capacity of the major shareholder and it would not interfere with any decision made by the MTRCL and its management in this matter. Though it is the major shareholder, it can simply be ignored.

Deputy President, in a situation like this, the Government is actually renouncing all its responsibility in providing reasonable and convenient public facilities to the citizens. This is absolutely no different from privatizing these public facilities. Deputy President, the Government should be on the side of the people in this matter and it should collaborate with Members of this Council to fight with the MTRCL for more benefits to the people. But this is not the reality. Much to our shock, the Government is standing on the other side. Why does it have to become an enemy of the people? Why does it have to come to the defence of a business entity, cling firmly to this stance and refuse to give in, not yielding even the slightest bit? Deputy President, I think that this highlights the greatest contradiction in the political system of Hong Kong, that our Government is not really for the people but for the business sector.

Deputy President, I regret very much the Government's attitude in which it gives up its basic responsibilities. In view of this point alone, we think that Members should refrain from giving support to the Bill. But the point is, 10 months have been spent on discussing the Bill already and if we are really to bargain, then I will make a counter-offer. In fact, we requested a meeting with Secretary Dr Sarah LIAO. She gave her consent graciously and she was willing to sit down and talk with us. We are indeed very grateful for this.

What we raised are five very basic demands conveyed by the people to us through various groups. These are the following: first, there should an immediate fare reduction and fares reduced should remain in force for two years; second, the Government should say clearly as to when the Shatin to Central Link will be built; third, half-fare concession should be offered to persons with disabilities. On this point, this demand has been discussed for a long time and if I have a chance in the debate on the amendments, I will talk about it again. Fourth, the Government is duty-bound to dispel suspicions that it is selling assets at dirt-cheap prices and it should disclose to the public information on property development above the stations. It must adopt public bidding procedures to ensure that public assets are sold at reasonable prices. Fifth, the Light Rail should take similar and synchronized action and reduce its fares.

Unfortunately, of these five demands, only in the first one that the Government has given in. However, as I have just said, the money is actually the money from the pockets of the people. I think it is absolutely not acceptable when it is said now that this money returned is to be deemed as having made the counter-offer and fulfilled its responsibility. Later on the Government may say,

"Ronny TONG, this is not the case because there is an FAM in place after the merger and it allows fare increases and reductions." Will this mechanism benefit the people at all? An entity which has got any social responsibility will reduce the fares at its own initiative when circumstances permit. This is more so the case when the major shareholder of this entity is none other than the Government.

However, this is not the case with this mechanism. Under the existing mechanism with its formula, the MTRCL may have the flexibility to handle such matters and it can increase or reduce the fares of various routes by different rates. This is where the problem is. When such a decision is made, should the fares for longer distances be used to subsidize fares for the shorter distances or *vice versa*? Or should fares for a certain district be used to subsidize another? No one can have any say in this. Also, it is now clear that both the Government and the Legislative Council will have no say at all in fixing the fares in future. How is this different from the situation in many of the toll tunnels or in the case of The Link REIT? When we give up for no good reason this power to monitor fare levels, what we have got in return is only a flexible mechanism in fare adjustment. Speaking from the people's angle and seen from a long-term perspective, this is totally unacceptable.

On the second demand that I have just talked about, what happens to the Shatin to Central Link? Deputy President, this Shatin to Central Link, as Mr Albert HO and other Honourable colleagues have said, has arrived at a plan under a competitive environment. This means that a schedule is to be devised to build a public facility that people in the New Territories would like to see and with a smaller price tag attached to it. But because of this merger, this plan will have to be shelved. The Government says that it will tell us later. This makes me think of a famous line by Regina IP, the former Secretary for Security, who said, "Trust me." Deputy President, when the Legislative Council relinquishes its monitoring power in this respect completely, what else can we tell the public? Can we trust the Government when it holds such an attitude?

In this regard, the Government seems to be totally unaware of the fact that the people of Hong Kong, especially those living in the New Territories, hope very much that the Shatin to Central Link can be built as soon as possible. The Government does not sense the urgencies of the people. Nor does the MTRCL. To this very day, we do not have any clear timetable or any idea as to how the line would run.

Deputy President, we think that the third demand is a very sensible one. This is about half-fare concession for persons with disabilities. We have been talking about this for almost two years. Deputy President, I am not a member of the Subcommittee to Study the Transport Needs and Provision of Concessionary Public Transport Fares for Persons with Disabilities. However, whenever I have the time, I would go to their meetings. Because I think it is a very irresponsible position and it is against justice when the Government says on the one hand that it agrees with the policy and thinks that it should be put into practice, but on the other it is doing nothing. There are only words but no action. And what is spoken is different from what is found in the mind. Mr LEUNG Yiu-chung has just said that a survey done by the University of Hong Kong recently proves that if concessionary fares are offered, public transport operators will not incur any losses.

But what if they actually run into losses? Does the Government not have the responsibility to provide funding to prevent this from happening so that those people with disabilities can get the concession that they deserve? If we look at all the civilized societies in the world, including our own Motherland, we will find that concessions on this are provided. Why in Hong Kong which is such an affluent and prosperous society and where Rolls Royce cars roam freely on the streets that is this not possible? What we are talking about is just a few tens of million dollars. The estate duty which was abolished two years ago alone would mean a loss of public revenue greater than this amount; actually it was tens of times to that amount. The amount of public revenue given up was as much as tens of billion dollars. What then does this sum of tens of million dollars matter at all? People spend that amount of money drinking wine. Why is the Government not willing to do it?

The Government has all along been putting up excuses. Sarah LIAO passes the ball to York CHOW who then returns it to her. And she passes the ball again to Donald TSANG. In the eyes of the public, the Government is one government, not three governments. It cannot say that its left hand does not know what its right hand is doing. It cannot say that it is none of its business when its right hand is doing nothing. To be honest, Deputy President, I am very agitated when this topic is raised up because I think it is about something that is clearly a breach of justice. We in the Civic Party will never, never accept such a position.

As for property above the stations, I do not think I need to speak much on this subject as Albert CHAN will talk a lot about the selling of assets at

dirt-cheap prices later. I do not need to spend time on this subject, for I have talked for 12 minutes already. The matter is very simple indeed. The Government has the responsibility to provide all the relevant information to the people of Hong Kong and it must adopt the procedure of public bidding so that our assets can be sold at a price really worth their value.

As for reduction in the fares of the Light Rail, I would leave the subject to Honourable colleagues from the Democratic Party, for they have been fighting for residents in New Territories West for this over many years. We in the Civic Party are absolutely in support of the position of the Democratic Party on this subject.

Deputy President, since this bargaining has failed, would this be beneficial to the people if we look at this from the perspective of the overall interest of the people of Hong Kong? Would the merger be a good thing in the long run and as a whole? Deputy President, I do not think so. To this day and after 10 months of discussion, I am still not convinced. The reason is simple, and as I have just said, this so-called FAM which allows for increases and reductions is absolutely no protection for the people at all.

Second, we have lost a competitive business environment both in theory and in practice. Now we are allowing all the railway facilities in Hong Kong to be monopolized by a listed company, the MTRCL. The Government has made its stand clear, that it would not intervene. And the Legislative Council has renounced its power to monitor the operations of the MTRCL. But what have we got in exchange? To top it all, we know practically nothing about the prospects of the Shatin to Central Link. Had there been a competitive business environment, the KCRC may try its best to join in the bidding for the Shatin to Central Link because it wants to grab a greater market share. But now the MTRCL is standing aloof with its arms folded and it does not care a bit. The Government does not care and the MTRCL does not care. It makes no difference if the project is to commence or not. Why should it be anyway? Even if the Shatin to Central Link is built someday, as there is the problem of fares mentioned by me where fares will be dealt with flexibly, the completion of the Shatin to Central Link may not be enormously helpful to the people of Hong Kong, let alone those living in Sha Tin. These residents may even have to pay quite a considerable price in financial terms.

Deputy President, overall, I fail to see how this enactment can benefit the people of Hong Kong in any way. Therefore, we oppose the resumed Second Reading.

MR FREDERICK FUNG (in Cantonese): Deputy President, in the wake of the financial turmoil in 1997, Hong Kong economy remained in recession for years. The miserable atmosphere prevalent in society at that time is still vivid in my mind. With the unemployment rate standing high, we read press reports of negative assets, unemployment, bankruptcy or suicides resulting from bankruptcy nearly every day. Faced with wage reductions and layoffs, people in the lower and middle strata were made to bear most of the hardship when the economy was in the doldrums. On the contrary, many major corporates were able to fare better on their own and come out unscathed. Not only did they enjoy institutional protection, they could also insist on putting their priorities on profits without any regard to their social responsibilities. The MTRCL, for instance, could continue to make huge profits in times of economic depression on the ground of adhering to "prudent commercial principles" without any regard to the affordability of the public. Even in times of deflation, the MTRCL could still shamelessly refuse to lower fares and tide over the hard times with the people. Instead, it merely opted for some petty favours by offering short-term and highly restrictive concessions. It has done nothing at all to alleviate the enormous pressure borne by people in the lower and middle stratum as a result of transport expenses.

How could the public at large stand all these? As a result, society was filled with discontent and grievances, and pressure began to intensify. It was not until then that the Government, as if it had just awakened from a dream, embarked on studying ways to alleviate the burden imposed by transport expenses on the public. While the two-way bus fare adjustment mechanism introduced earlier represented a belated first step, the instant fare reductions resulting from the rail merger and the formulation of a new FAM represent yet another "late spring", thereby averting the previous black-box operation by the two railway corporations in determining fares. In addition to fare issues, the present rail merger involves many problems in other areas, too. In short, society must take this opportunity of the rail merger to reform the various deficiencies and flaws of the MTRCL and KCRC in operation.

Owing to the time constraint, and I am the only member of the Hong Kong Association for Democracy and People's Livelihood (ADPL) in this Council, I can only express the views of the ADPL from three aspects:

- (1) *The Government's current proposal to reduce fares immediately upon the merger:*

The immediate fare reduction proposal has not taken into account the amount of extra fares paid by the public during the economic recession. During the recent discussion on public housing rents, for instance, the Government has proposed an 11.6% rent reduction alongside a one-month rent waiver (however, the data collected by the ADPL has shown that the reduction rate is still far from the objective standard for rent reduction in the light of the diminishing economic power of tenants due to income reduction over the recent decade. We have thus proposed a 15% to 20% rent reduction and a two-month rent waiver). The one-month rent waiver is obviously meant to make up for the extra amount of rent that PRH tenants have paid during the economic recession. Regrettably, the instant fare reduction proposal has completely wiped this out and merely offered a belated fare reduction. However, the reduced fares cannot reflect the amount of extra fares paid by commuters during the economic recession in the past.

The rate of fare reduction has not only failed to cover the deflation over the past years, but also failed to benefit short-trip commuters in targeting long-haul commuters only. The \$0.2 fare reduction for short-trip commuters is indeed too small.

The period of offering a concessionary fare of \$2 to elderly people on Sundays and public holidays during the first year following the merger is indeed too short. This measure should be made a long-term fare policy to express our respect for the elderly and our recognition of their past contribution, and complement our elderly care policy of emphasizing "the sense of worthiness".

We welcome the Government's decision to heed the ADPL's advice to extend the fare reduction period to June 2009. However, we maintain that MergeCo should consider further extending the fare reduction period to make up for the extra fares paid by commuters over the years when the economy was in the doldrums.

The ADPL is also dissatisfied that the Government has failed to extend the fare reduction package to cover the Light Rail. First of all, the Light Rail

serves mainly the residents of Tuen Mun and Yuen Long, who rely on the Light Rail to travel to and from their workplaces, just as other commuters using the services provided by various railway lines on Hong Kong Island and in Kowloon, and the East Rail and West Rail of the KCRC. Why would the residents in the two districts be treated unfairly? Is the Government aware that they were made to bear the burden imposed by exorbitant transport fares during the economic recession? Furthermore, residents in remote areas, already considered as the disadvantaged, have been suffering from a lack of social resources and community support measures. As a result, community problems have continued to emerge. Has the Government paid any attention to the residents? Why are they often neglected? Hence, the ADPL requests the Government to extend the instant fare reduction package to all the Light Rail lines upon the merger.

The MTRCL has always been using "prudent commercial principles" as its shield to evade its corporate social responsibility and decline fare concession offers to people with disabilities. The Government ought to take advantage of the rail merger to correct the MTRCL's old mentality of giving sole consideration to shareholder interests and introduce the business concept of corporate social responsibility by, for instance, providing suitable employment opportunities to people with disabilities, offering fare concessions, improving station facilities to meet the needs of people with disabilities, and so on. In the current merger, however, the Government has chosen to side with the MTRCL by dwelling on the definition of people with disabilities and inflate the actual numbers of relevant people with disabilities to create a false impression that the fares at large will be subject to enormous pressure. The ADPL deeply regrets this.

(2) *New fare adjustment mechanism:*

On the whole, the ADPL welcomes the introduction of a new, more transparent FAM to replace the existing mechanism that allows the two railway corporations fare autonomy. This can at least restore things to order so as to correct the past practice of the two railway corporations whereby they could continue to turn a blind eye to public interests and decline fare reduction requests in times of economic hardship. In the future, in the event of any economic fluctuations reflected in the

Composite Consumer Price Index (Composite CPI) and Wage Index (Transport sector), the adjustment mechanism will be activated to allow for upward or downward fare adjustments.

Nevertheless, it must be pointed out in unequivocal terms that movements in the Composite CPI and Wage Index (Transport sector), and the productivity factor alone cannot fully reflect the real living situation of the public and their financial means. In addition, the new FAM has failed to consider how to deal with extreme circumstances.

For instance, despite the significant economic growth recorded in recent years, the changes in the economic structure and the needs of grass-roots people are often neglected as the existing economic policy is tilted in favour of the business sector. As a result, grass-roots people are unable to enjoy economic benefits. Regrettably, economic figures have often failed to reflect the situation. As a result, when fares rise in future, grass-roots people might probably be made to bear fare increases for no reason, even though they have not received any economic gains.

Conversely, when the economy or society was hit by unexpected circumstances, such as the SARS in 2003, the new mechanism might not be flexible enough to respond promptly to the needs of the public as adjustment will be made only in the light of movements in the two indexes mentioned above. Hence, MergeCo should retain a certain measure of flexibility. In addition to fare adjustments made according to the new adjustment mechanism, some short- or medium-term concessions should be introduced when necessary — I stress, when necessary — to provide appropriate support to grass-roots people and people in remote areas.

The ADPL also welcomes the Government lowering the scope of flexibility for fare adjustments at the eleventh hour. However, the ADPL still insists that MergeCo must strive to standardize the rates of increase and reduction for various fares in accordance with the new mechanism to avoid a repeat of what bus companies did in the past. By way of some financial skills, the bus companies managed to, within the permitted rates of increase, impose a lower fare increase on less popular bus routes and a higher one on more popular bus routes. Under such a mechanism, the bus companies were able to maximize their profits while the majority of

the people were made to bear a rate of increase higher than the average. Hence, we support the introduction of a scope of flexibility for fare adjustments to prevent MergeCo from employing the old skills used by the bus companies. Furthermore, the ADPL hopes that the Secretary can undertake to introduce similar flexibility for fare adjustments in the bus fare adjustment mechanism.

(3) *Arrangement for the Shatin to Central Link (SCL):*

The commencement date of construction of the SCL remained uncertain even though the KCRC has been awarded the right to build the SCL. The Administration has stated, in proposing the Bill at the very beginning, that it will merely hold further discussions with the MTRCL on the financial and implementation details of the SCL. The Administration has not only failed to come up with anything substantial, it has also given the public an impression of procrastination. It has even been rumoured recently that there is a plan to construct the SCL in phases by first completing the Tai Wai to Hung Hom section, whereas the construction of the remaining section across the harbour will not be considered until 2023. The ADPL is strongly dissatisfied with this as the Government has failed completely to pay regard to the expectations of the people living along the rail line for rail services.

Despite the Government's recent undertaking that the SCL will be finalized within six months upon the completion of the legislative process of the rail merger, including the formulation of a timetable for implementation, did the Government not make a similar undertaking that the SCL would be scheduled for completion by the KCRC by 2011 when the KCRC was awarded the right to develop the SCL? Does the Government remember this promise it has made? Now the Government has made another promise again. Will this promise reinforce our fear that the Government will never honour its promises? Today, the ADPL has the good wish that the Government can, upon the completion of the legislative process, implement the proposal and timetable for the construction of the SCL, which was raised, decided and agreed upon in this Council today. We absolutely do not hope to see the completion of the SCL in batches in the interest of the MTRCL. We insist that the Government should treat the SCL as an integral component of the

comprehensive railway network for planning purposes and expedite the completion of the SCL.

The rail merger is still greatly inadequate because the proposal to reduce fares immediately upon the merger is too mean and has failed to take into account the extra fares paid by the public during the economic recession in the past. Moreover, the scope of fare reduction does not cover the Light Rail; MergeCo has refused to provide fare concessions to the disadvantaged and people with disabilities; and the commencement date of the construction of the SCL is still undecided. However, should the merger not be effected, the two railway corporations will continue to enjoy the autonomy in determining their own fares under the so-called "prudent commercial principles" and, as they have been doing in the past years, target on the public indiscriminately by increasing fares. Furthermore, fares will continue to be adjusted with reference to the size of profit without being subject to any mechanism of checks and balances. Actually, during the years of economic recession following the financial turmoil, members of the public have experienced how the two railway corporations could have callously refused to tide over the hard times together with the people without making the slightest concession. The ADPL really does not wish to see a repeat of such a farce. The public have already had enough. The restructuring will be able to change the situation.

(THE PRESIDENT resumed the Chair)

In all fairness, the newly introduced FAM will completely break the monopolization of fare adjustment by the two railway corporations. Of course, as I pointed out earlier, the new mechanism is still flawed. For instance, it has failed to completely reflect the actual living condition and affordability of the public and give consideration to counter-measures to be adopted under extreme circumstances. Compared to keeping the status quo without introducing any changes, the new mechanism, given its objectivity and transparency, will obviously do Hong Kong society or members of the public more good than harm.

Under such circumstances, we will choose the lesser of the two evils. Hence, we are compelled to choose to vote for the Second and Third Readings though, as I said in my speech earlier, we will approve and support the

amendments proposed by other Members. Therefore, we will vote for the amendments proposed by other Members to the Bill. We hope the Government can realize, in the course of the motion, debate and introduction of amendments, the concern of Members about what will happen after the rail merger and address this issue positively.

As there is still little time left, I would like to tell the Secretary that, due to the debate, the ADPL experienced great hardship during the past two weeks because District Council members in the New Territories opposed while those in the urban areas supported the merger. After arguing for several hours, we eventually made this very painful decision. We hope this decision can benefit Hong Kong people as a whole. Furthermore, we hope the Government will really fulfil its promise to provide fare concessions to people with disabilities travelling on the Light Rail and SCL and make the announcement within a very short period of time. Thank you, President.

MS EMILY LAU (in Cantonese): President, in recent years, I have heard some members of the public praise Hong Kong's transport system for its excellent, fast and comfortable services, as well as praises from some tourists. I have also heard many say that we are excellent compared with other international cities. During a meeting on the Bill, I also told the railway corporations, especially the MTRCL, that they had done an excellent job. However, President, I forgot to mention I heard some people express the hope that our education system could be just as good as our railway systems.

However, I was once told by a member of the public that he lived in a faraway place, and he had to spend a lot every day to travel to and from his workplace on Hong Kong Island. He said that he could skip his lunch but he could not possibly avoid the transport expenses. When it comes to a meal, a loaf of bread costing \$2 to \$3 can fill the stomach just as a meal costing \$20 to \$30 does. What can we do about transport expenses?

During a discussion held by the Subcommittee to Study the Subject of Combating Poverty, a Member proposed to move a motion of no confidence because the Financial Secretary was found to be lying when he said that some money would be allocated as travel support for certain people who have to travel to work. This explains why some initiatives were hastily proposed in this year's Budget for implementation. However, the initiatives seek to help certain

job-seekers only. I believe the Secretary should be aware that, according to the Government's internal studies, some people have to spend one third or one fourth of their income on travel expenses. President, the problem is our society is highly divided, with some people being extremely rich. According to the statistics prior to 1997, there were more than 80 000 households with a monthly income of less than \$4,000. The updated statistics show that the number of such households has more than doubled. Therefore, the disadvantaged must be cared for.

I felt good when I heard members of the public praise our rail and bus systems. However, I have also heard the disadvantaged say that their condition is deplorable. Living in remote areas, their children have never visited Kowloon, not to mention Hong Kong Island. They simply cannot afford the travel expenses, and they have no idea what those places are like. Ought we to do something to help them? This is why I greatly share some of the questions raised earlier in connection with fares by Members, particularly those from the pan-democratic camp. However, I will not necessarily insist that everything must be vetted and approved by the Legislative Council. During the scrutiny of the Bill, many colleagues suggested handing the matter back to the Executive Council for vetting. However, this is not put into practice.

President, we are not talking about privatization. Even if the merger is materialized, the KCRC will still be wholly owned by the Government, and more than 75%, or 76%, of the MTRCL will be owned by the Government. Upon the merger, the two railway corporations will become a listed company, and the Government will become a major shareholder. The Government is absolutely obligated to ensure that the fares are affordable to the public. This is a serious subject. The Secretary must respond to it.

When it comes to the Light Rail, President, I am even more furious. Being a Member representing New Territories East, I have been discussing this matter with residents of Tuen Mun and Yuen Long (especially residents of Tuen Mun) for years, and the discussion is still going on. We feel that the authorities owe them a lot, for what happened in Tuen Mun was mostly bad rather than good. Even Mr Albert HO, who is such a moderate gentleman, has been forced to take to the railway tracks. It is not even known whether or not he will be arrested. The Secretary should understand that the residents have always wondered why commuters on other routes can choose, whereas they cannot do the same. They have been suffering a lot for years.

Mr Frederick FUNG said earlier that he decided to render support because the residents are in great pain. Even though Mr FUNG belongs to the pan-democratic camp, I still wish to say, "You are wrong, Frederick." If we can secure enough votes to veto the Bill, I believe the Light Rail fare reduction — as well as fare reduction for people with disabilities — will definitely be negotiable. Now.....

(Some people in the public gallery clapped and clamoured)

PRESIDENT (in Cantonese): People on the public gallery, please be quiet.

MS EMILY LAU (in Cantonese): President, many Members have not yet spoken even though our debate has lasted more than three hours. I hope Members can turn back before it is too late, especially those Members who are going to run in the election in November and have promised that they will care for the disadvantaged. Not only will they run in the election next year, they are required to do the same in the future as well. I am not encouraging them to curry votes from voters during their election campaign. For years, many people have attributed a lot of problems to the Government's policies which have gone wrong. Today offers a good opportunity to ask the Government to correct them.

Therefore, if someone dares come forward and say this and that and requests Members to do this and that, I will ask him whether or not he knows what this Council is capable of doing. The fact we are capable of vetoing the Budget and Bills has led the authorities to reconsider matters they would rather not accept. Otherwise, President, why will Secretary Michael SUEN be willing to compromise in dealing with the Housing (Amendment) Bill next week? He personally commented during a meeting held by the Housing Authority that this was a political reality. Regrettably, such a political reality is not demonstrated in this Bill. However, I do not think it is too late. I believe the Secretary will understand that more than half of the Members here have no intention to veto the Bill. They merely hope to help the residents in Tuen Mun and Yuen Long and people with disabilities. Why can this not be done?

Last Sunday, President, I attended an event staged by Dr Fernando CHEUNG and Mr LEUNG Yiu-chung in a MTR station — the MTRCL must be

thanked for its "infinite grace" for allowing the event to be staged there. However, I would like to tell the MTRCL that this was not enough. Those people are the disadvantaged we are talking about. I have stated in this Chamber many times that a civilized society has nothing to do with high technology, finance, and so on. It is most important that the disadvantaged are treated with love and care. I have no doubt that people living in Tin Shui Wai, Tuen Mun and Yuen Long and people with disabilities belong to the socially disadvantaged groups. Actually, we strongly believed that the Secretary was trying very hard to care for them when she took office five years ago.

Today, even the Secretary would have felt that what was said five years ago might have been partly realized. Why have the authorities refused to take this one last step? The Secretary said that the railway corporations are reluctant to offer concessions. If they refuse to do so, the authorities might as well do it. It is possible because, first, the amount of money involved is not too large. Second, as pointed out earlier, a university survey has revealed that profits will be reaped if many people travel on MTR after concessions are offered. Such being the case, why did the authorities still insist that a few more months will be required for the study to complete? I am really tired of such words. Nothing can be achieved even if the authorities spend a few more months on the study, President.

Hence, I cannot say I disagree with what colleagues said. However, what does the decision not to offer concessions, such as the Light Rail's decision not to offer concessions to people with disabilities, mean? This is discrimination, discrimination against those people, an act of looking down upon them, or a reflection of the thinking that they are powerless to do anything to confront the authorities and the railway corporations. I am not encouraging anyone to take a confrontational stance. However, when people find government policies intolerable and they are forced to stand up against government officials, how can society harmony be achieved?

President, the Chief Executive is now in Beijing. I have no idea what he is talking about. He is probably talking about a package that can be found in Heaven. However, we must come back down to the Earth. I hope the Secretary can note, and people in political parties can consider, that there is still time. If Members can demonstrate a certain position on this Bill, I believe the authorities will be pressed even harder to think faster.

As Mr LEUNG Yiu-chung said earlier, even the discussion on such a minor issue as offering concessions to people with disabilities has been dragged on for years. President, my position on those motion debates should have been known to you. I am not saying that the Honourable Member is making a fuss about nothing. However, those motions do not have any legislative effect. Do we still have to carry on with the discussions? Never mind. Let us continue with the discussions. But today, we really have to take it seriously. I wonder who would believe this has to be done in this manner. Actually, I am not saying that the Bill will really be vetoed and come to naught if I vote against it. The Secretary will surely talk with Members intending to vote against the Bill. This is why I asked Dr Joseph LEE, who is sitting beside me, earlier in the meeting how he would vote. Anyone who has a vote in his hand will be able to realize his strength. These are not under-the-table deals for reaping benefits. We are speaking for the disadvantaged in Hong Kong. If this can be achieved, I believe even the business sector — which is taken very seriously by the Government — will not dare to say anything.

If we can give a little help to people living in remote areas by lowering the fares and people with disabilities to enable them to spend less on travel expenses — actually we are merely talking about half-fare concessions, not free rides — if they can thus be encouraged to come out more frequently to integrate into society, what is the sense of not doing that? Hence, may I ask the DAB and the Hong Kong Federation of Trade Unions (FTU) whether or not they support the disadvantaged? Because we heard Members make a lot of verbal promises during meetings that they would help. I have heard a lot of Members say something like that. Today, we will find out whether their deeds answer their words. I do not wish to say some people are being pretentious. President, this is exactly an opportune moment for us to demonstrate whether we have been merely engaging in empty talk about certain matters.

Today, we have finally reached this stage. People have often complained that the Legislative Council is useless. However, I have often told colleagues that we should never say anything like that. Although some of our power has been snatched by the Basic Law, given that we possessed much more power in the past, we are absolutely useful when it comes to Bills and allocation of funds. We are useful not because of the power of individual Members, but because of our collective power. Our bargaining power will become much greater if we can pool a majority of votes.

When it comes to the Light Rail and people with disabilities, the views of Members in this Council are actually consistent. President, this is indeed ridiculous. Of course, controversial subjects will naturally not be passed. I will be convinced if I am beaten in this way. However, our views are unanimous. Today, we are given this opportunity to demonstrate once again our unanimous view to compel the authorities to seek leave from the President to suspend the meeting so that they can go back to their offices to discuss the matter and deal with it again when they come back. This is definitely possible. What colleagues must do is to make their decision promptly. We are not seeking to threaten anyone. I am merely requesting Honourable Members to make good use of the votes in their own hands and fight for the disadvantaged in Hong Kong. Hence, here I would like to appeal to all colleagues, especially those who declare that they care about the disadvantaged, the grassroots and people with disabilities, to make good use of their votes and, most importantly, tell the Secretary how they are going to use their votes.

President, I will say a few words about environmental protection. I am in great support of a transport system with railways as its backbone because railways are environmentally-friendly. However, the loud noises in train compartments are really annoying. The KCRC is really outrageous. Just now, Ms LI Fung-ying praised the MTR for its good performance. However, I still hope that it can, first, generate less noise and second, as suggested by Mr WONG Kwok-hing, allow us to listen to radio broadcast with headsets. However, there are still some people who are disturbed by other noises. These noises come from maintenance and train operation which are very noisy, constituting a great nuisance to many housing developments. Actually, the railway corporations may purchase better and newer machines, though they will certainly be expensive. President, we have talked about these during our meetings. It has been promised that the machines will be replaced in due course. However, I still hope the railway corporations can act faster to replace the machines because noise pollution has made more than a million people in Hong Kong suffer. Sometimes, pollution of this kind is invisible. While air pollution is visible, noise pollution can make people feel very bad because of sleeplessness. Hence, I hope the railway corporations and the Secretary can do something to tackle this problem by all means.

President, time is running out. The fate of the disadvantaged is in the hands of the political parties in this Council. I hope Members can consider carefully and tell the Secretary how they are going to vote. Perhaps things may take a turn for the better if we act in this way.

DR FERNANDO CHEUNG (in Cantonese): President, Ms Emily LAU has raised a good question. This Council has its position. Although according to the Basic Law, and under the existing system, this Council has been deprived much of its power to exercise checks and balances, every vote in Members' hands counts at the Committee stage.

Will the rail merger benefit the people of Hong Kong? What benefits will be brought to the socially disadvantaged groups in need of better care as a result of the rail merger? Will the so-called synergy bring them some sorts of fare concessions or new arrangements in terms of facilities? Will the rail merger result in better utilization of public transport by the disadvantaged so that they can make use of public transport affordable to them, as a basic tool in living, to integrate into society to engage in basic, daily activities performed by ordinary people, including work, education or other social activities?

President, we need not to stray too far. Regarding the proposal of travel concessions targeting remote areas, as mentioned earlier by Ms Emily LAU earlier, I have chatted with some cleaning workers in the Legislative Council Building. The proposal is a matter of great concern to some of them. President, I was once asked by a worker the effective date of the merger. In reply to my question as to how much he earned, he told me that he earned \$5,300 a month. Right, he is qualified. As I went on to ask him more questions, I found that he lived in a remote area and had to spend almost \$50 a day on travelling expenses. President, this sum of money accounts for nearly one fourth of his daily wages. My heart ached when I heard what he said.

We Members work here every day to fight for the basic living necessities for Hong Kong people in the hope of coming up with a better arrangement without knowing that some people in this Building are eagerly waiting for the early implementation of travel concessions for remote areas. I can only say: Sorry. I voted for the Financial Secretary last year in the belief that the proposal would be implemented. It turned out that he had cheated me. He eventually made a promise this year as we contemplated a motion of no confidence. However, his promise has not yet been honoured to date. I feel ashamed whenever I see these friends of mine. We cannot even help our friends in this Building. The cost of travelling to remote areas is indeed exorbitant.

If members of the public are asked whether they find travelling expenses exorbitant, I believe the public at large will give an affirmative answer. The less they earn, the more exorbitant will their travelling expenses become. Travelling expenses can indeed be described as ridiculously exorbitant. President, when we seek to organize some groups to attend meetings here for some preparatory work — as I belong to the Social Welfare Constituency, my clients are mostly from the socially disadvantaged groups — the most formidable enemy we face in organizing anything for the purpose of, for instance, expressing views in this Council, staging demonstrations or protests, and so on, is travelling expenses, not the Government. Actually, travelling expenses have become an obstacle. Some of them said, "Dr CHEUNG, we are unable to come because we can no longer afford to come to attend your meetings." For the middle-class people, travelling expenses are definitely not their major consideration when the economy is at present buoyant. However, if we refer to the Consumer Price Index mentioned by Mr LAU Chin-shek earlier and the past statistics provided by the Census and Statistics Department, we will find that the less a person earns, the ratio between his travelling expenses and daily expenses will rise even higher.

Many colleagues have raised the point that the rail merger will trigger many issues of concern to us. We certainly have to examine this most significant and largest sum of money. Have assets been sold at dirt-cheap prices? Can fare arrangements take into account the revenue from the development of superstructures upon the rail merger so that members of the public will no longer be required to pay such exorbitant travelling expenses? Hong Kong is actually a unique and strange place. Public transport operators in many advanced places around the world seldom make profits, probably because of their vast expanses and abundant resources. Only the public transport operators in a small number of places can make profit. Almost all of the public transport operators in Hong Kong, however, have a chance to make a profit. Furthermore, the two railway corporations have become the most lucrative public transport operators.

Actually, upon the rail merger..... let us not dwell on the merger for the time being. Before the merger, the two railway corporations were already the largest public transport operators. Upon the merger, they will account for more than 40% of the ridership of all the public transport operators. Their development of superstructures has also become one of the characteristics of the territory. Owing to the high land price policy, land is very expensive in Hong

Kong. Consequently, the prices of properties built on land are very expensive too. Owing to their property development rights, the two railway corporations have been reaping exorbitant profits from property development. Insofar as these profits are concerned, we as Members of this Council should ensure that under no circumstances should public utilities or public transport operators be allowed to make consideration merely from the commercial angle, given that the Government has now decided to privatize railway services. Instead, at least a reasonable portion of these commercial gains should be returned to the people of Hong Kong. However, there is nothing we can get hold of in this process.

Just now many colleagues mentioned such figures as \$80 billion *vis-a-vis* \$7.8 billion. I will not repeat this here. I will also not dwell on other topics such as fare reduction for the Light Rail or other facilities. I will come back to all these at the Committee stage. Insofar as the overall fare adjustment is concerned, subsequent to the rail merger today, MergeCo basically enjoys an automatic fare increase mechanism, which means that fares may be increased automatically in accordance with inflation. However, their revenue from property projects was previously not reflected in the fares. How can the income be factored into the determination of fares? I will stop discussing this here. In the remaining time, I only wish to focus on an amendment I have originally intended to introduce. President, this amendment seeking to offer half-fare transport concessions to people with disabilities has been rejected by you.

Although this amendment will have some impact on fares, the operation of the two railway corporations, as public transport operators or public utilities, must take into account the overall interest of society, particularly that of the disadvantaged. Such concessions should be taken as a means to repay society or an initiative to care for the disadvantaged, rather than purely a fare regulation measure.

As far as I remember it, a consensus has been reached a number of times here in this Council. For instance, four relevant motions proposed by Mr LEUNG Yiu-chung have been passed. The offer of concessionary fares to people with disabilities has been mentioned in the party platform of the DAB — not its party platform — in some of the annual initiatives proposed by the DAB in its manifesto. They have also suggested some very concrete means. As for the Liberal Party, President, Ms Miriam LAU has repeatedly expressed her

approval of the offer of concessionary fares on public transport to people with disabilities with a view to encouraging them to integrate into society. Even the Government has stated its position that it agrees that this should be done. However, there are several obstacles.

As regards the first obstacle, the definition of people with disabilities is sharply divided. How should people with disabilities be defined if everyone claims themselves to be people with disabilities? We in the community have already discussed this matter and reached a consensus. For the sake of coming up with a clear definition, we can base on the Government's definition of the people eligible for disability allowance. This definition is extremely clear in the sense that the Government and doctors will be responsible for control and approval respectively. Only people who are 100% disabled, or such kind of people who are also Comprehensive Social Security Assistance recipients are eligible for the concessionary fares. If this definition is adopted, we will be able to tell the number and even the names of these people. Therefore, definition is no longer a problem. Actually, if elderly people and children are excluded, the number of people with disabilities should stand at around 95 000.

As regards the second obstacle, the Government has expressed its concern about the risk of violating the Disability Discrimination Ordinance (DDO). It is absolutely ridiculous that, President, the DDO enacted by this Council should become an obstacle as, according to the Government, the DDO will be violated should transport concessions be offered to people with disabilities. A great number of colleagues, including some counsels in the political party to which I belong, do not share this view. It is clearly stipulated in law that some special measures allow for the offer of special concessions to people with disabilities. However, according to the Government's position, the DDO might be violated. Even the Equal Opportunities Commission (EOC) has expressed a similar concern. However, should it run the risk of violating the Ordinance, we can introduce legislative amendments. The Government has never said that the Ordinance cannot be amended. If there is consensus in this Council and the Government is willing to propose amendments, the Ordinance can definitely be amended. Then the Government said, "Alright, we will amend, amend and amend." In other words, there will be no more problems with legislation.

As regards the third obstacle, this is a commercial decision. In other words, the corporations are operating in accordance with commercial principles. Should such concessions be provided to people with disabilities, will we incur a

loss and how much loss will be incurred? Can we afford it? Without any idea, we must look for an answer. However, we were told earlier by the transport operators that they had no idea either, though we had suggested to them that a study be conducted. As they did not have an entirely clear understanding of the matter, they had instead proposed that government funding be provided to commission the University of Hong Kong (HKU) to conduct a study to examine the following issues: How will people with disabilities use public transport carriers if they are offered transport concessions? How will the new transport pattern of people with disabilities affect these public transport carriers and will they make a profit or incur a loss as a result? According to the findings of the study, transport concessions can really encourage more people with disabilities to come out. Even Mr LEUNG Yiu-chung has mentioned earlier that the number of people with disabilities using the MTR and KCR will more than double. President, based on this point alone, it is worthwhile to offer them transport concessions, as more people with disabilities will then be encouraged to come out. It is greatly worthwhile to do so if the number of people with disabilities using the MTR and KCR more than doubles. How should we as members of society treat these people with disabilities? By offering a little more concession, we will be able to achieve social inclusion by encouraging more people with disabilities to come out.

What about cash flow? The findings of the study conducted by the HKU have revealed that, if the concession is offered all year round, the KCRC will be able to reap an additional \$30 million, and the MTRCL an additional \$27 million. In other words, both railway corporations will be able to reap profits. President, I really have no idea what problems are still unsolved. I think the entire society has already reached the consensus that transport concessions be offered to people with disabilities to help achieve social inclusion. Let us not mention again the \$1,200 disability allowance. Frankly speaking, \$1,200 is not enough to cover even the expenses on medicine or certain basic facilities. Let us have no more excuses.

This is what places all over the world have been doing. When I put a question to Chief Executive Donald TSANG on the last occasion, I said that even China — our Motherland — is offering free rides as a concession. However, Mr TSANG replied that this is a socialist arrangement, while Hong Kong is practising capitalism. I would like to report to the President that, according to the information I have on hand, many capitalist countries all around the world are offering similar concessions. They include Austria, Belgium, Bulgaria,

Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, Japan, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, Turkey, Britain, the United States, Canada, Australia, New Zealand, India, Taiwan, and so on. What does this mean? These countries are apparently not practising socialism. In addition, the concessions offered by more than 10 of these countries apply to not only people with disabilities, but also their escorts. Of course, every country might have different definitions of people with disabilities. Generally speaking, it is evident that the whole world is encouraging more disadvantaged people to participate in social projects by this means. A case in point is an example cited by the EOC. During the privatization of railways in Victoria, Australia, it was clearly provided that railway corporations must provide fare concessions to people with disabilities.

President, what is standing in the way of the matter? Now the Bill is about to be passed. What power will we still possess after the passage of the Bill to call on the Government and the two railway corporations to provide transport concessions to people with disabilities? This is real. I hope all political parties will consider that it is now time for us to put words into action. It is only at this very moment that we can compel the Government to act more justly.

Thank you, President.

MR ALAN LEONG (in Cantonese): President, the Civic Party's unequivocal stance towards the rail merger is that the possibility of the public to gain greater benefits following the merger must be evaluated. If the merger cannot bring benefit or little benefit to the public and, on the contrary, jeopardize the public's significant interests in the future, then there is no reason to support the rail merger at this stage. Next, I will focus on discussing the issues pertaining to the Shatin to Central Link (SCL) to explain the position of the Civic Party.

The planning for the railway linking Sha Tin and Central was first initiated in the Second Railway Development Study (RDS-2) in 1998 in which six major options were shortlisted, including the East Kowloon Line, the Fourth Harbour Crossing (FHC), and the Tai Wai to Diamond Hill link. The RDS-2 even proposed that the East Kowloon Line and the FHC should form the basis of the future railway development.

Then, with the publication of the Railway Development Strategy 2000 (RDS-2000) in May 2000, the Government formally proposed that a North-South Corridor be constructed to run direct from Tai Wai, Sha Tin or Ma On Shan to Hong Kong Island via Southeast Kowloon. The RDS-2000 explains that the single development of the East Kowloon Line between Diamond Hill and Hung Hom is not efficient and financially viable. Therefore, the East Kowloon Line should connect and extend to the north and south to form a strategic railway corridor from Sha Tin to Hong Kong Island across the harbour.

In July 2001, the Government received the tenders submitted by the MTRCL and the KCRC for the SCL respectively. According to the tender submitted by the KCRC, the Tai Wai Station and Hung Hom Station will become the major interchange stations, the Tai Wai to Diamond Hill link will be commissioned in March 2008, and the Diamond Hill to Hong Kong Island link will also be commissioned seven months later. According to the tender submitted by the MTRCL, the Diamond Hill Station and Admiralty Station will become the major interchange stations, the Tai Wai to Admiralty link will be commissioned in February 2008, and the Admiralty to Central West link will not be commissioned until December 2011.

In June 2002, the Government awarded the right to operate the SCL to the KCRC. The evaluation body was of the view that the tenders submitted by the two railway corporations were equally matched in terms of their technical assessment merits. However, the KCRC's proposal, involving a construction cost of \$26 billion, does not require any government funding. Under the \$23 billion proposal made by the MTRCL, government assistance is required by way of awarding the MTRCL the right to land and property development. Moreover, the construction costs for infrastructure and re-provisioning have to be met by public money. Hence, the tender submitted by the KCRC won in the financial assessment, and the KCRC was eventually granted the right to operate the SCL. After repeated revision, the final version of the SCL extending the East Rail across the harbour was submitted by the KCRC in September 2004, thereby resulting in a north-south railway from Lo Wu to Central and a east-west railway connecting the West Rail, the East Kowloon Line and the Ma On Shan Rail (MOS Rail).

President, while planning for the SCL proposal, the Government also started in 2004 to work towards the merger of the two railway corporations. One of the major subjects involved is the interchange arrangement for the SCL.

At a meeting held by the Subcommittee on Matters Relating to Railways in January this year, the Government still undertook with great conviction that the rail merger would provide the SCL with a fully-integrated interchange station and stated clearly that active discussion would be continued for the expeditious implementation of the SCL proposal. However, after a mere one and a half month, the Government suddenly came up with an idea of taking a piecemeal approach to the SCL proposal by first constructing the Sha Tin to Hung Hom Link. According to media reports, the Government has even considered that the cross harbour problems at Hung Hom can be dealt with until 2023 on the ground that the existing three cross-harbour rail links carry a mere 60% of the travelling volume.

Insofar as the rail merger is concerned, the biggest concern of society at large is none other than fares and the Sha Tin to Hung Hom Link. According to the comments made by the Secretary for the Environment, Transport and Works in April 2006, commuters travelling on the SCL may switch to the Mass Transit Railway (MTR) by way of an integrated interchange platform without leaving the SCL station and even paying boarding charges. This is better than what it was before the merger. It is precisely because of the belief that the merger will make the SCL more convenient and cheaper that there has been a tendency among the public in support of the merger. If the merger, however, implies that the SCL will become the Sha Tin to Hung Hom Link, the option will definitely not be better and more convenient. In contrast, the SCL will only be unable to meet its descriptions as a result of the merger.

Actually, the KCRC was granted the right to operate the SCL through competitive tender. If eventually the KCRC is allowed to operate the FHC, the cross-harbour rail links will become the focus of competition between two corporations, instead of being monopolized by one corporation. This is definite good for the public. Later, subsequent to the Government's efforts to promote the merger, the four major cross-harbour rail links will again be monopolized by one corporation. Such being the case, the Government is all the more obliged to convince the public and prove that they will be able to gain greater benefits as a result of the merger of cross-harbour rail services. If the merger implies that the construction of the long-awaited FHC will still be put off indefinitely, then the community will definitely opt against a merger and instead, allow the KCRC to execute its tender without the need for the public to contribute even a cent to the SCL.

President, the Government's decision to postpone the construction of the SCL on the ground that the existing cross-harbour rail links account for only 60% of the travelling volume only serves to prove once again that government officials are unaware of the public opinion. The fact that the cross-harbour rail links account for only 60% of the travelling volume is precisely because the cross-harbour section of the Tsuen Wan MTR Line is perpetually congested. At the same time, the cross-harbour links on the east and west are unable to share the passengers travelling between Admiralty and Tsim Sha Tsui. As a result, the majority of the public still opt for the Cross-Harbour Tunnel (CHT) to cross the harbour. Even if some people are willing to travel from Central or Wan Chai to East Kowloon by MTR, they often have to struggle a lot to decide whether they should interchange at Admiralty or Mong Kok, or at North Point. Given that the public have to spend 30 to 40 minutes either way, how can they be blamed for failing to make full use of cross-harbour rail links?

Obviously, the SCL can offer more convenience to residents in the New Territories while alleviating pressure on cross-harbour rail links from Admiralty to Tsim Sha Tsui. At the same time, it can resolve together the hardship experienced by commuters travelling between East Kowloon and Hong Kong Island, thus attracting more people to switch to rail links to cross the harbour and thereby complementing more effectively the Government's long-term sustainable development strategy relying mainly on railways. The implementation of this proposal, which not only serves multiple purposes but also requires almost no additional injection of funding by the Government, will be postponed indefinitely because of the rail merger. So, should we still support the merger?

President, another reason cited by the Government for the delay of the SCL is that the construction of the rail link hinges on the implementation of the Kai Tak Development plan and the review of the progress of the Central-Wan Chai Bypass. However, this is just an excuse for reversing cause and effect. The Government seems to be implying that whether or not the Sha Tin to Hung Hom Link should cross the harbour cannot be decided unless a decision is made on Kai Tak and the Central-Wan Chai Bypass. But actually, the outstanding projects of the SCL which are related to the two planning projects merely concern the finding of a suitable location for the depot in Southeast Kowloon and the alignment of the Central-Wan Chai Bypass. The Government has made it clear in its document that the two issues are not difficult to resolve technically and in terms of construction. In other words, the consideration simply has nothing to do with whether or not the rail link should cross the harbour.

What is more, it was mentioned right at the beginning of the public consultation on the Kai Tak planning review that the Kai Tak station of the SCL will become a major station of the Kai Tak Development. Here I would like to draw Members' attention to the fact that I am talking about the Kai Tak station of the SCL, not the Kai Tak station of the Sha Tin to Hung Hom Link. The fact that the SCL will pass through the Kai Tak City Centre is basically a predetermined component of the entire Kai Tak Development.

If we take the Kai Tak element into joint consideration, we will all the more doubt that it is absolutely unreasonable of the Government to say that "there is no need to cross the harbour prior to 2023". According to the Government's plan, the cruise terminal and some residential projects in Kai Tak are scheduled for completion between 2012 and 2013. The Government might probably wish to tell us that even the addition of these projects will not lead to a growing demand for cross-harbour rail links in Southeast Kowloon. We should still recall the great talent and bold vision demonstrated by the Government in respect of Kai Tak. Upon the completion of sports grounds, hotels, offices and cruise terminals, a cross-harbour rail link accessing Admiralty or Central might still not be available in the vicinity. Residents, tourists or employees wishing to cross the harbour will then continue to be forced to choose between buses, MTR or taking a detour.

President, the important key to the success or otherwise of the Kai Tak Development originally hinged on the availability of a convenient rail link connecting Kai Tak with Hong Kong Island. Now, not only the cross-harbour link remains doubtful, even the Sha Tin to Hung Hom Link is still not finalized, and whether it can be completed in 2011 is still a big question. Will not a single rail link be found upon the successive completion of various projects in Kai Tak? I very much hope some people who have the experience of playing the SimCity computer game can tell Members whether or not it is possible to build skyscrapers before the completion of a railway. However, the Government has strangely told us today that the Sha Tin to Hung Hom Link depends on Kai Wai, but not *vice versa*.

President, let us compare again the merits and demerits of different options. In the RDS-2000, the SCL is a "strategic railway corridor", as well as the core of the future railway development. According to the successful tender, we should be able to see the SCL in October next year. Furthermore, taxpayers are not required to pay a cent for the construction of this rail link which can not

only facilitate competition, but also contribute to environmental protection and sustainable development. However, the SCL might now be forced to cut down its scale by half. In so doing, not only will it be unable to alleviate pressure on the CHT and the cross-harbour section of the Tsuen Wan Line, the significance of the strategic railway corridor will also be lost. What is more, the effectiveness of the Kai Tak Development will be greatly reduced. From this angle, the merger proposal today will not bring society greater benefits.

President, employing the major principle mentioned by me earlier in my speech to determine whether or not the Civic Party should consider supporting the rail merger, we have asked the very question of whether supporting the merger at this stage will bring the public the maximum benefits and whether the public can gain greater benefits as a result. The earlier analysis of the SCL does show that no benefit whatever will thus be gained. President, under such circumstances, if the rail merger implies the disappearance of the SCL, we can hardly support the merger at this stage.

With these remarks, I oppose the resumed Second Reading.

MR FRED LI (in Cantonese): President, I will focus on the Shatin to Central Link (SCL) in my speech. It is because before 2002 when there were still arguments in the community and the MTRCL and the KCRC were competing for this rail link, I was representing the Wong Tai Sin District then and residents of Tsz Wan Shan, in particular, were very concerned about it, as it was planned that the rail link would comprise a station in Tsz Wan Shan and that the rail link would run through the Tate's Cairn Tunnel from Sha Tin.

Tsz Wan Shan has, in fact, a population of over 100 000. Why are residents of Tsz Wan Shan particularly concerned about this rail link? It is because the steep and narrow hill roads in Tsz Wan Shan have made road extension works impossible. The tens of thousand daily commuters travelling to and from work have to rely on exhaust emitting buses or minibuses that have yet to be converted to liquefied petroleum gas. They are relying on these modes of public transport travelling to and from the district, resulting in pedestrian/vehicular conflicts and the problem of vehicular exhaust. The Secretary is very concerned about the environment; with regard to steep roads, in particular, Members can imagine that when buses have to climb up the long steep roads — buses are even not allowed on some of these slopes in Tsz Wan Shan —

they will emit lots of exhaust air and this happens just every day. Requests for the provision of more buses and enhanced feeder service are actually tantamount to increasing the emission of vehicular exhaust. So, on this premise, the Democratic Party had consistently expressed concern to the two railway corporations, and we would strive to reflect the views of the residents disregarding which corporation would be awarded the contract.

A decision was made in 2002 and the KCRC was granted the right to develop this rail link. We again expressed the concern of the residents to the management of the KCRC immediately — there have since been many personnel changes — about how the Tsz Wan Shan station should be provided and how the project could be implemented expeditiously for the convenience of the residents who lived on the hill of East Kowloon by providing a mass carrier to them.

After studies, the KCRC finally said that due to the mountainous terrain of Tsz Wan Shan, the construction of an underground railway would be possible only to a depth of 200 ft below ground and so, an overhead automated people mover system similar to that at the Airport was proposed, but the scale of such a system would obviously be trimmed significantly. Well, even if that would be the case, we still overcame all the difficulties and supported this proposal, hoping that it could be completed expeditiously because this is, after all, a comparatively less polluting mass carrier system which would connect residents of Tsz Wan Shan to the Diamond Hill station for a switch to the MTR to Hung Hom and then to Hong Kong Island. No one would have expected that it would be delayed again and again. The entire rail link was originally scheduled to be completed in 2011 the latest but now, we are nevertheless told that given the need to study the rail merger, no decision has yet been reached as to how the proposal will develop and that it may even be carried out in a piecemeal manner. As many colleagues have made this point earlier, I am not going to repeat it.

I only wish to reflect again the situation of the residents of Tsz Wan Shan. They have been waiting day and night and now, all that they can do is still waiting, not knowing for how long they still have to wait. I wish to take this opportunity of the Rail Merger Bill to again reflect in this Chamber of the Legislative Council the earnest wish of over 100 000 residents of Tsz Wan Shan. When exactly can a mass carrier system be provided to them in order to reduce the emission of vehicular exhaust in the district? This will be helpful to the residents of Tsz Wan Shan and also to the air in Hong Kong.

So, Secretary, I think today, you will have enough supporting votes to pass this Bill, even though we will oppose it. But I hope that after its enactment, the Secretary can immediately decide on the construction of the SCL which goes from Sha Tin via Hung Hom..... Besides, residents of Whampoa have also been waiting for a long time. At that time, I was working with Mr James TO and we had discussion with the KCRC in our capacity as Members representing Kowloon West and Kowloon East. It is because a station that links up with Hung Hom was also proposed. We have a common aspiration, and we hope that the SCL can commence as soon as possible for residents of these two districts who have been waiting for a long time. I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, with regard to the rail merger, the first point that I wish to make involves transport in the whole territory, for railway has been chosen to play the role of a mass carrier providing point-to-point service in Hong Kong. This is certainly more environmentally-friendly and for this, Hong Kong has spent a lot of money. I had taken up different jobs during the construction of the MTR. If I died of work injuries back in those years, I could have lost my life for the MTR. I was a worker at that time, and I remember that many co-workers had suffered dysbarism. In some cases, the health of the workers was impaired and in some other cases, the workers died. So, the MTR is, in fact, full of the blood and sweat of Hong Kong people, both in a literal sense, which means real blood and sweat, and also blood and sweat in terms of money or assets.

Now, the KCR and MTR have already monopolized railway operation with the assistance of the Government in terms of policies and resources. As I have said repeatedly, the merger means giving away a corporation that still allows full government ownership and enables the Government to enjoy comparatively more decision-making powers in the Board to a privatized corporation which is already sold by the Government, and this is precisely why the MTR Corporation Limited (MTRCL) has always refused to reduce its fares and carry out reasonable reforms on the ground that the interest of small investors has to be taken care of. The topic under discussion today is about such a situation.

So, we actually do not have to talk about the Shatin to Central Link (SCL), railway fares, and so on. This is basically crazy. There is simply no reason to

surrender to a privately-owned corporation something which concerns Hong Kong people and worse still, selling it (meaning the asset) at a loss. What justifications are there? The Government has given no explanation. It only kept on saying, "No, this was not the case, and we would make it reduce the fares." This is actually quite unreasonable. Many commentaries in the press said that the opposition camp is always irrational and opposing the Government. However, the Government is not very rational either. It only said that the merger could help economize on resources and manpower and so, the fares could be reduced. I would like to ask this: The two railway corporations make a profit to the tune of billions of dollars per annum, and this has been the case over the years even in times of deflation. So, if, in times of deflation, they failed to take advantage of the deflation to firstly, expand the scale of business and secondly, conserve energy or reduce expenditure for the corporation, what kind of corporations are they?

Some colleagues mentioned the SCL. All major enterprises will launch development projects in times of deflation. Why is the SCL developed in times of inflation? So, the corporation's management had been holding discussions without making decisions and making decisions without taking action and should actually be dismissed. Had these been private corporations, their salaries could have been saved. Many things have happened in the interim, such as a corporate mutiny, power struggles, and so on, but members of the public have never been consulted. Why are we still singing the praises of privatization here today? Those people should have been the first to be dismissed.

But much to our regret, that did not happen. Instead, the mentality reflected a reversal of logic. In order to achieve the merger, and in order to make this KCRC disappear for at least 50 years, it is therefore given to the MTRCL, and this is why we are holding this discussion here. But what I would like to say is that only very little consultation has been conducted on such an important transfer of asset which involves environmental protection, transport, public property, and so on. Representatives of the trade union were invited to give their views. They said that the merger must not result in retrenchment or this and that. Those representatives who came to us focused only on these trivialities, and they were only asking the authorities to promise this and that. But they never asked whether the merger is logical and whether a resource originally under the control of Hong Kong people should be given to a consortium which is not subject to control. This is the kernel of the question.

We know that whenever the Government seeks to take forward a privatization proposal, it invariably describes the proposal in a way as if it is impeccable. In The Link REIT incident, for instance, legislation was endorsed by an overwhelming majority vote in a thunderstorm-like manner in this Chamber. The Government said, "Hand it over, so as to make some money. Give the management right to a more efficient company." But some time later, many colleagues who voted for the legislation accused The Link Management, saying that the proposal was actually not plausible and that they had pointed this out long before.

So, I think the Government knows only too well whether or not there are enough votes in support of it. So do those people who support the Government. But the question is: What are we here to support? What we are here to support is whether or not this social resource, the blood and sweat of Hong Kong people, should ultimately be controlled by the Government or people with a public mandate (people who are vested with a public mandate through elections)? But in my view, this is not the case in reality. Let me cite a simple example: Tunnels. The Western Harbour Crossing (WHC) is privatized and when under-utilization occurred, the WHC would request a toll increase on the ground of low patronage, or else it would suffer a loss. For the Eastern Harbour Crossing (EHC), a toll increase is also necessary because of high utilization. The Cross-Harbour Tunnel (CHT), which belongs to the Government also followed suit and asked for an increase in its toll, and despite that the toll has not been increased, tunnel traffic is congested all the time. This is what I had said to the Judge when I was on trial in Court, and I had held up traffic for 10 minutes.

The current traffic conditions in Hong Kong are precisely the result of such condemnable transport policies. The two tunnels are given to a consortium and used as "money spinners", resulting in everyday traffic congestion at the CHT. This design is basically crazy. This also echoes the comments made by many colleagues earlier. The design of the MTR and the KCR is crazy, for there is no "shortcut". The EHC also has no "shortcut" and if we exit from the EHC and wish to go somewhere more quickly, there is simply no alternative and this is why traffic is totally blocked.

This is a problem of urban design in the whole territory, and it stems from our practice in Hong Kong of habitually surrendering to consortiums things requiring long-term investment for long-term returns. In short, it is because we had been subjects of colonial governance that we did not think with a farsighted

vision as the government would cease to exist anytime. But why can we still not get rid of this habit after the reunification? We will always belong to the People's Republic of China, and disregarding which political party is in power and even if the Communist Party of China is overthrown or stepped down, our country will still be the People's Republic of China, and it will still be China. Why should we still follow this practice? This is simply inexplicable.

In fact, many colleagues — I do not know whether or not they are shareholders of the MTRCL — said that they supported the merger; they may have shares of the MTR because in so doing, they could then swallow up the assets that were sold at knock-down prices. We talk about exercising control and the need to reconsider the transport policy in Hong Kong, but as we do not have the right to exercise control, what is the point of talking about all this? As Alan LEONG had said when contesting the election of the Chief Executive, what is the point? Donald TSANG did not have to respond to him. The MTRCL does not have to respond, and our colleagues do not have to respond. As for the Secretary, I do not know if she is going to respond or not. So, what are we talking about here? We are actually talking about a very important issue. It is about whether or not the Government can give a privately-owned consortium an asset of Hong Kong people, especially when the asset concerns such matters as transport and environmental protection which may affect each and every member of the community. This is the crux of the matter.

In my view, the merger is correct, as it offers an opportunity for a more efficient deployment of resources. This cannot be wrong. But if the merger means that our people have to give another person assets originally in their ownership and the profit made by this person will only go into his own pocket, then the merger would be a wrong move. As a Cantonese idiom goes, the money that goes to the wallet on this side is his profit, and the money that goes to the wallet on the other side is also his own profit. If the three railways are all managed by workers, the profit margin might make little difference to them; they might say that they would rather improve the service than reduce the fares; they might not agree to reduce the fares substantially; they might also slightly increase the fares. Yet, they will conduct consultation with a high degree of transparency, and if they subsequently reached these conclusions, nobody would raise objection.

However, the problem now is that the existing bureaucratic structure of the KCR or this so-called authority has actually made it difficult for us to manage

our own assets, because the system is corrupt. It is going to be even more corrupt, and it will be given to the MTRCL for management. I would like to ask those people in support of the merger how they are going to manage the MTRCL. Through what channels can they do so? Are they going to do it through buying the shares of the MTRCL? Is it necessary to set up a hedge fund to acquire the MTRCL in order to do so? In fact, from a certain viewpoint, there is no problem with this approach, and if any consortium should express an interest in buying the KCRC or MTRCL, sell it. We can determine a new asking price and sell it, right? But are we doing it? No. What is being done now is employing misleading and deceptive means to convert all the assets obtained with the money contributed by Hong Kong people, whether by way of loans, concessions in land prices or property development above the stations, into a hedge fund that allows continued privatization through a fine-sounding measure which is said to be a way to increase operation efficiency and allow possible fare reduction, so that the corporation can gain full control of the assets, as in the case of The Link REIT. This we absolutely cannot agree. The situation has even deteriorated since the reunification of Hong Kong in a way that whatever assets of the workers that can be put up in the market are made available to the market by all means to facilitate speculations in the financial markets and to facilitate the growth of bureaucracy, thus enabling people who have the opportunity to become owners of these assets to use these assets as money spinners.

This is also a phenomenon of globalization. People who have amassed sufficient capital and made investments in the stock market can have a bigger share of the residual value because of the huge profit margin. According to this logic, after a corporation has been turned into a money spinner, there may not be any possibility of fare reduction because as long as the MTRCL keeps on expanding its investment and if the MTRCL, being a large-scale corporation in the future, will invest in China and Asia, how can we fill up the hole of its ever expanding assets? If its assets are expanded, more funds will be required to meet its rate of return and to meet the demands in the market. This is the question we are here to discuss today.

So, my suggestion is very simple. If we all consider this a good thing, the Government should determine a price and sell it to a new consortium, and let us call it the "Hong Kong Railway". This will at least give Hong Kong people a sum of money first. Why do we not do it? Let it operate the railways since it said that it is capable of doing so. Why do we not do it? The situation now is

that when we told Larry YUNG that there were problems with the traffic and asked him why he did not do something to the EHC and WHC in order to make some changes, he said that he is the owner and queried why we should tamper with his belongings. Then the Government asked him whether he would sell them to the Government for it to make adjustments. The asking price was staggering, and he even asked the Government to sell the CHT to him. The Government refused.

So, the entire problem is that pivotal government policies should, like those in the Mainland, seek to make improvement in respect of environmental protection and environmental hygiene for the people, and to further reduce the fares and promote the right to public transport more effectively in the light of the needs of the community and the people. Now, all these requirements or expectations will be passed onto the MTRCL in one go, and when the MTRCL becomes the owner of these assets, it will only continue to work in a way which is not subject to any supervision. This is the problem that we are here to discuss today.

What I consider most regrettable is that this Legislative Council is, insofar as the system is concerned, basically a small circle, as half of the Members are elected by functional constituencies to enable the Government to have enough votes to pass its motions. They would think: What is wrong with making money? This is where the problem lies. The problem is that with regard to such a major issue, firstly, society still considers it unnecessary to consult the 6.9 million people, and secondly, the 30 directly-elected Members representing these 6.9 million people cannot protect their interest under this voting system. It takes a mere six months for us to sell the assets of Hong Kong people to a profit-making corporation. So, on behalf of the League of Social Democrats, I oppose the resumed Second Reading of the Bill. Thank you, President.

DR YEUNG SUM (in Cantonese): Madam President, I rise to speak against the resumed Second Reading of the Rail Merger Bill (the Bill). Normally, we oppose the resumed Second Reading of a Bill mainly for reasons of principle.

Indeed, the Democratic Party opposes the Bill mainly because of principle. We have opposed the rail merger right from the outset. The main reason is that after the merger, the two railway corporations will be merged into one and this

would deprive the public of their choices and cause competition in the market to disappear. MergeCo would then become a kingdom with huge, unchecked powers. The lack of choice for the people and the lack of competition will result in the corporation having no incentive to improve its service in order to meet the needs of the public. It is basically very difficult for the Democratic Party to support the merger on the general principle that the removal of competition will deny the public choices.

As we all know, Hong Kong is basically inclined to be a market economy with the mainstream thinking generally advocating competition and choice, and believing that only competition can make progress and only when there are choices can efficiency be improved. The Government has nevertheless vigorously promoted the merger of the two railway corporations and this is most incomprehensible indeed. The Democratic Party basically cannot support the merger because of this principle.

I am a Member of the Legislative Council representing Hong Kong Island. I often think of the China Motor Bus in my childhood when there was only one bus company operating on Hong Kong Island. We all know how the bus service had become later. Then there were the New World First Bus and Citybus competing with each other. Madam President, it was much easier for us Members of the Legislative Council at that time, as we only had to lobby the two bus companies individually and they would do everything they could to improve the service in order to attract more patronage. As a result, the public had more choices, and competition had enabled the two bus companies to make progress.

But much to our regret, Madam President, after the acquisition by the New World First Bus, I knew that our lobbying effort would be in futile. The bus company actually does not have to pay any attention to us. Insofar as its service is concerned, our choice is either we take it or we do not take it, which is actually a case of Hobson's choice. Under the circumstance where the people have no choice, the quality has dropped and the company has little incentive to improve its service. Therefore, judging from these circumstances where competition is lacking in the market, basically we should not support and encourage a rail merger. On the contrary, we should encourage the two railway corporations to continue to compete with each other, so that the public can have more choices and their services can be improved.

I oppose the rail merger because of one principle and two considerations. Madam President, Mr Albert HO had already spoken at length on the detailed reasons. One consideration is that there is no MTR in the Southern District. Although the Government had told the DAB that priority would be given to the South Island Line in future development projects after the merger, Madam President, we all know that "priority in development" can actually mean a long, long time from now, for there is basically no implementation timetable. So, we will launch a signature campaign in the Southern District on Sunday to call on the Government to expeditiously finalize the timetable of the development of the MTR South Island Line.

The Government often has reasons to drag its feet, and it has treated the MTR South Island Line with indifference. I think one of the reasons is that the authorities do not wish to create the conditions for the MTRCL to ask for a staggering price. That is, if the Government can show more indifference and react less enthusiastically on the question of equity injection, perhaps the MTRCL may not ask for too high a price. Regrettably, as a decision has yet to be reached on equity injection even after long delays, residents of the Southern District have to continuously put up with the traffic ordeal. Just take a look at the Aberdeen Tunnel and Members will see my point. Temporary closure is basically a common phenomenon at the Aberdeen Tunnel, and traffic is very busy and crowded in Pokfulam during the rush hours in the morning or in the evening, and when the vehicles arrive in Central, a gridlock will appear in Central. Therefore, traffic on the entire Hong Kong Island (especially in the Southern District) is utterly unsmooth. We have fought for a western extension of the MTR for residents in Kennedy Town and the Western District on Hong Kong Island for over a decade, but we have never expected that the MTR South Island Line would make no progress at all even now.

Madam President, as you may know, the Ocean Park has taken out a loan of \$5.5 billion from the Government for its vigorous expansion project. Hotels will be completed, and there will also be the Fisherman's Wharf to be developed by the Government. However, traffic has remained congested on the Ap Lei Chau Bridge and also in the Southern District, Aberdeen Tunnel and Pokfulam. Even at the Cyberport in Victoria Road, an increase in the population has led to continuous traffic congestion, and there is also frequent traffic congestion in Caine Road too. So, the traffic condition on the entire Hong Kong Island is most undesirable. Since the authorities have emphasized the development of

the tourism industry which is so important to the Hong Kong economy, and considering the development of the Fisherman's Wharf and the expansion of the Ocean Park, if the long overdue South Island Line is still delayed, I believe the grand and ambitious plans of the Ocean Park might have to abort, or the desired results might not be achieved. While the Ocean Park has considerably outperformed the Disneyland, I think its plans on further development will tax the existing transport capacity beyond limits.

Since the tourism industry has such a significant bearing on Hong Kong and given the great difficulties faced by many non-skilled residents in the Southern District, the early development of the South Island Line will, I believe, greatly benefit the employment of low-skilled workers, as well as the development of the entire community and the entire tourism industry in Hong Kong. But regrettably, on this issue, some government officials have been telling me that I must first support the rail merger before the South Island Line can be discussed. This is really "adding oil to the flame". I think this is basically intimidation. I consider it most detestable to be held to ransom and worse still, they were even threatening the Democratic Party or telling me to convince my brethren in the Democratic Party to accept the rail merger before there could be the South Island Line. From Day One I have strongly protested against this. Today, let me make this point clear for the record: The South Island Line should commence as soon as possible and the Government should cease to be indecisive on the question of equity injection.

Madam President, another consideration is corporate responsibility. Indeed, the service of the MTRCL is of a very high standard in the world. But when it comes to corporate responsibility — the Government has always talked about social enterprises and corporate responsibility recently — the MTRCL is below par. In this Chamber we have campaigned for the provision of concessions to people with disabilities for more than a decade, and Members can look up the past records of meetings. All political parties and groupings are basically very supportive of the provision of transport fare concessions to the disadvantaged.

Members can take a look at the White Paper on Rehabilitation. It is basically the policy of the Government to promote a society of equal opportunities and encourage people with disabilities to integrate into the community as soon as possible. Evident in the survey conducted by the University of Hong Kong as cited by Dr Fernando CHEUNG earlier on, if the

MTRCL can provide concessions to people with disabilities, it would facilitate their community involvement, and even the MTRCL and KCRC will definitely register growth in profit. We always talk about equal opportunities, pointing out that we must ensure that people with disabilities can fully integrate into the community without being subject to discrimination. In fact, since the MTRCL makes such a handsome profit every year, it should, as a matter of priority, provide transport fare concessions to people with disabilities as soon as possible.

In fact, I consider it most regrettable that the MTRCL is not up to par insofar as corporate responsibility is concerned. A corporation so large in scale, and a corporation which is so progressive and modernized in its operation is nevertheless lagging far behind in terms of an ethical culture, completely turning a blind eye to the disadvantaged and completely ignoring their rights and interest, and shutting them out from mainstream society and treating them with sheer indifference. Such callousness and such money-comes-first corporate culture are what I absolutely take exception to. Considering the principle and the two considerations that I have explained briefly, I cannot support this Bill.

Certainly, fellow Members from the Democratic Party have already made their points very clearly. The principle and district-related considerations aside, we oppose the merger also because the fares of the Light Rail are not reduced in the entire New Territories West, the Shatin to Central Link has not yet commenced, and there are repeated delays of the South Island Line. Even though the Government said that priority would be accorded to this rail line in the timetable, we consider that this is just a stalling tactic adopted by the Government. Other than the signature campaign to be held on Sunday, we again call on the Government and the MTRCL to properly discuss and settle the problem of equity injection, so as to facilitate the early commencement of the South Island Line. Certainly, reduction of Light Rail fares and the provision of transport fare concessions to people with disabilities must be given priority.

All in all, the Government and the MTRCL have done a good job in "packaging". This is why the Democratic Party must openly and strongly oppose the merger. Members can see that many of our brethren have spoken, and Mr LEE Wing-tat will "guard the final gate". I think he is going to make rather strong criticisms in his speech. However, apart from making a speech in this Council, the chances of us influencing the Government are slim. Yet, I

hope that Hong Kong people will understand that the Democratic Party opposes the rail merger. Madam President, it is not the case that we do not like to see a fare reduction by the MTRCL. Why should we oppose the merger if it means a moratorium on fare increase over a long period of time? But the problem is that we have to give up long-term benefits for short-term benefits. To Hong Kong people who are practical and who have wisdom, I think they must think about this very seriously.

I think friends from the pan-democratic camp basically all oppose the merger, perhaps with a few exceptions, but basically, we are opposed to it. I hope Members will understand that the pan-democrats do not oppose for the sake of opposition. Rather, we oppose it for the long-term interest of Hong Kong and for the disadvantaged, residents in New Territories West and people with disabilities. I think we must persevere. I hope Members will understand the fundamental reasons why we oppose it. It is not the case that we do not accept it despite that benefits will be gained in the short term.

Thank you, Madam President.

MRS SELINA CHOW (in Cantonese): President, I do not wish to waste any more of Members' time here explaining why the Liberal Party supports the early realization of the rail merger, because Ms Miriam LAU already explained this very clearly earlier on. Perhaps I should sum up the reasons.

Hong Kong is only a small city and so, we need only one railway corporation to achieve synergies, and the undertaking of fare reductions can also be fulfilled immediately. This is not just a short-term concession. Dr YEUNG Sum must not get it wrong. When fares are reduced today, the base will also be reduced, and in the long term, benefits will come continuously. Fares of long-distance journeys can be reduced by 10%, while those of short-distance journeys can be reduced by 5%, and there will be concessions for interchange too. All these can be achieved immediately after the merger. Better still, the fares will not be adjusted upward for two years, and a mechanism which allows for increase and reduction in railway fares can be introduced. This is some positive, stable and reliable information given to our passengers, enabling us to know the conditions to be offered by the railway system in providing service to passengers.

There is another reason which was not mentioned by Ms Miriam LAU and which I think is very significant and that is, given Hong Kong's increasing integration with the Mainland, rail service is set to become the most effective means of transport connecting Hong Kong and the Mainland. For instance, with regard to the Regional Express Line or the Guangzhou-Shenzhen-Hong Kong Express Rail Link, Guangdong Province has obviously worked more efficiently in carrying out preparatory work for this rail link. We have nonetheless spent a great deal of time arguing whether a dedicated link should be built for the purpose or the original West Rail track should be utilized. I trust that if the territory's massive railway systems can be managed and planned as one unified system, it will expedite the progress of Hong Kong bridging with places outside the territory, and I believe this should be good news to the general public.

Moreover, the MTR Corporation Limited (MTRCL) has since its inception operated on market-led principles as well as the principle of customers first. The performance of its overall operation is there for all to see, and its corporate culture and efficiency have also earned recognition and commendation from the public. As for the KCRC, however, perhaps it used to operate in a way similar to a government department, so it has been inherently under the influence of bureaucracy, resulting in obvious inadequacies in its overall culture of governance. In fact, Members can see this from some incidents in the past. I believe the rail merger can especially bring in the corporate culture of the MTRCL on a full scale and hence facilitate integration and consolidation, and this can indeed enhance the efficiency of the rail system territory-wide, which will ultimately benefit members of the general public.

I have just talked about some benefits which, in the view of the Liberal Party and in my personal view, will be generated by the rail merger. I think many members of the public can also see these benefits. But today, we heard a number of colleagues caution that there would be a lot of disadvantages. But can their arguments be really substantiated? Firstly, almost all of those colleagues opposing the merger said that MergeCo would have absolute dominance in the market, that the problem would be serious and that there would not be competition at all, alleging that the merger is really going nowhere. Ms Miriam LAU already said earlier that the two railway systems have not started out to be competitors, for they are only operating in different areas separately and so, how possibly can we strictly say that they have been competing with each other and that this has, in turn, given more choices to the public? This is simply not true.

But when it comes to the adverse impact of the merger, we think that what the colleagues have said is rather interesting. The examples that they cited should be suggesting that the existence of two railway corporations is desirable in that they can compete with each other, but that is not quite the case according to what I have heard. Mr Albert HO said that the development of the Shatin to Central Link would introduce competition. Had there been only one railway corporation operating in the territory, I think the Shatin to Central Link could have been there already and it could have been completed today. It is precisely because the two corporations have to compete with each other and tendered for the project that this rail link has been delayed continually. The delay may be due to the existence of two railway corporations. If there is only one corporation, the situation would have been different.

Moreover, we have heard the example cited by Mr Fred LI. He said that he did not know how he could come here from Kowloon. This precisely has to do with a proposal made back then about connecting Kowloon with the Tamar Station, but the Tamar Station cannot be connected with the MTR station in Admiralty; nor can it be connected with the MTR Central Station. Why? Because there are two railway corporations. It was mentioned earlier why the KCR station in Mong Kok cannot be directly linked with the MTR. It is also because the operation of two corporations is involved and so, that is simply not possible. If there is only one corporation, certainly it would make the best arrangement. Obviously, the provision of rail service by one corporation certainly has merits, because planning could be centralized.

I have listened to Mr Ronny TONG's speech earlier and I think what he said is also very interesting. A number of colleagues, including Dr YEUNG Sum, have made similar comments about why the merger should be discussed together with fare reduction. We have held so many meetings and we have talked about synergies and yet, they seem to be uninterested in the synergies, thinking that we can jump to fare reduction direct without talking about synergies. Certainly, synergies mean that a merger of the two corporations will reduce expenditure in many areas and hence provide room for fare reduction to the benefit of passengers, and this is what synergies mean. So, how can we just talk about fare reduction without mentioning the savings to be achieved in expenditure? This is not in line with the normal way of commercial operation. The cost, expenditure and concessions should be linked. I do not know if they really do not understand it or they are just pretending not understanding it.

Dr YEUNG Sum mentioned being held to ransom earlier and this, I think, is even more laughable. The Government asked him to support the Government and he said no and asked the Government to do this and that first. Does this not amount to extortion? Dr YEUNG Sum said that this is not. The Government turned him down, telling him that it would do this and that for him after the completion of the rail merger, and according to what Dr YEUNG Sum said earlier, the Government was threatening him in so saying. I would like to ask the Democratic Party this: If they refused to support the Government when it refused to accede to their demand, were they not holding the Government to ransom? I wonder which Member of the Democratic Party can respond to this point later.

However, the Liberal Party has all along considered bundling unnecessary, because the merger has merits. As I said just now, we are not saying that it is 100% perfect and certainly, be it one corporation or two corporations, there are bound to be inadequacies. We have asked the corporations to make improvement before, and we will still ask the corporation to make improvement in future. We in this parliamentary assembly should not give up our responsibilities. We should follow this up continuously, and we cannot underestimate our strength as a parliamentary assembly because in playing our monitoring role, we have actually performed our function by achieving improvement of some services. We have expressed the aspirations of the public and we have put forward their demands continuously. While we have heard or seen that the Government may not necessarily accept everything, and the MTRCL or KCRC also may not accept everything, is it that no improvement whatsoever has been made? I think if I ask myself this, honestly, I cannot say so. We do have the duty to perform this role continuously.

Speaking of New Territories West, I am one of the Members representing New Territories West. Earlier on I heard many colleagues say that residents of New Territories West are unsatisfied, particularly with the Light Rail. Let us not talk about the Light Rail for the time being. But apart from the Light Rail, there is also the West Rail. Insofar as the rail merger is concerned, is it true to say that residents of New Territories West are not going to benefit from it in any case? The fare from Tuen Mun to Central is \$24.4 and it will be reduced to \$21.9 after the merger. The fare from Tung Chung to Sha Tin will be reduced from \$20.2 to \$18, and that from Yuen Long to Wan Chai will be reduced from \$24.4 to \$21.9 while that to Tsim Sha Tsui will be reduced from \$20 to \$16.8. All these fares will be reduced by 10%, and the reductions can take effect upon the merger.

If the merger is not approved today, do Members think that the reductions can take effect immediately? Will they take effect right upon the merger? Should this be a reason for our opposition to the merger? Are we saying that after the merger, we should let the residents deal with this matter and get entangled and if such being the case, are we not being generous at the expense of other people or at the expense of the passengers? I am sorry that I must disagree, as I have not conducted any survey among passengers in New Territories West. However, I think if residents of New Territories West, especially passengers in Tuen Mun, Tung Chung and Yuen Long, are aware of the concessions to be offered to them after the merger, even if they may not be completely satisfied with the merger, they would still accept it to a certain extent and they would at least consider this a good thing.

In short, if the Bill is not passed today, there would not be a merger, and without the merger, there would not be these concessions. But I do not think that the benefits are just transient. Rather, the lowered base for fare determination subsequent to the fare reductions would be maintained because of the FAM which allows for increase and reduction in railway fares and so, benefits will be generated long term.

Speaking of the Light Rail, there is no denying that residents of Tuen Mun and Yuen Long are unhappy. Why? When the Light Rail was first designed in the '80s, the system was meant to be an internal transport system to provide service within the district. The whole planning at the time was to facilitate employment of residents within the district and facilitate their mobility within the district. But now, its nature has been changed due to the construction of the West Rail. As the Light Rail has deployed many trains to help carry passengers of the West Rail, traffic in the district is therefore plunged into chaos and disorder.

Undoubtedly, we all understand and we all have heard the views of the public. Residents of Tuen Mun, Yuen Long and Tin Shui Wai considered that the train compartments of the Light Rail are too small, the trains are not frequent enough and the trains are too crowded; they are also dissatisfied that the Light Rail will be excluded from the proposed fare reductions. Certainly, we all understand why the KCRC has consistently refused to reduce the fares of the Light Rail. Because it is suffering an annual loss of \$100 million and so, it is difficult to reduce its fares. I told the Traffic and Transport Committee of the Tuen Mun District Council that if the merger were not approved and the KCRC

were allowed to operate with its present *modus operandi*, would they think that the KCRC would immediately make improvement to the Light Rail in such a way as they have requested? I think the chances will be very slim if the merger is rejected. After the merger, if there is sound management, coupled with the synergies to be achieved and other factors, it would be easy for us to request the railway corporation to address squarely the problems of the Light Rail.

Furthermore, the problem lies not only in the railway corporation. In fact, I have arranged a meeting with CHOW Chung-kong to discuss this with him. I will ask him to face up to this problem and tell us how the railway corporation will improve the operation of the Light Rail in various aspects. However, the Government also has a very important role to play because insofar as the district is concerned, given the *modus operandi* of the Light Rail, restrictions have been imposed on many other modes of transport for the protection of the Light Rail. This is unhealthy, and competition has been stifled. To passengers, this cannot provide convenience to them. Nor can this put any pressure on the Light Rail in respect of its fares. So, I hope that the Government can conduct a review expeditiously or within the next few months and strike a balance among various modes of transport in the district, instead of following the old practices in future delivery of service.

Besides, there is still another very important point. Since the fares of the Light Rail will not be reduced, certainly its fares must not be increased either, and all the other concessions, such as the "One-month Pass", should be maintained. In any case, all the existing concessions — I will not name each and every one of them — must not be withdrawn. The Light Rail must at least offer the concessions currently provided to passengers of other railways. It must provide such concessions as long as they are provided by other railways, or it should even outdo the other railways in this respect. Certainly, it would be better if the Light Rail can reduce its fares.

I hope that the railway corporations and the Secretary can give us a response in this respect.

Thank you, President.

DR RAYMOND HO (in Cantonese): Madam President, the Kowloon-Canton Railway Corporation (KCRC) and the MTR Corporation Limited (MTRCL),

which were established at different times, mark the different stages of the development of Hong Kong. During the '70s and '80s in the last century, that is, around the time when I was involved in and responsible for the infrastructure projects on the modernization and electrification of the entire Kowloon-Canton Railway (KCR) (Kowloon Tong to Lo Wu section), the KCR was regarded by the general public as a rural railway serving the New Territories, while the Mass Transit Railway (MTR), commissioned in 1980, starting with the Central to Kwun Tong line and later extending to Tsuen Wan, was regarded mainly as a urban railway line. However, after almost 30 years of continuous expansion and development of the local railway network, the distinction between the KCR as the rural railway and the MTR as the urban railway has gradually disappeared. It is time to reorganize the mode of operation of local railways, in order to pave the way for future railway development. In fact, Hong Kong is a small place and our railway network is relatively simple and concentrated compared to that of other metropolises in the world. It should be more suitable for railway service to be operated by one single railway corporation, instead of two.

Firstly, the rail merger can provide convenience to passengers interchanging between the KCR and MTR. At some existing interchange stations, such as Kowloon Tong and Mong Kok, passengers often have to walk for a rather long distance for interchange. As the fare-charging systems of the railway corporations are independent of each other, interchanging passengers have to exit from one railway first and then enter the next. It is time-consuming and a second boarding charge is also levied. After the rail merger, there should be improvement in the interchange arrangement. In respect of railway fares, MergeCo has undertaken not to increase its fares in the next two years and passengers will also benefit from fare reductions. At present, the daily public transport patronage is about 11 million passenger trips in Hong Kong, about 36% of which is the railway patronage, and as the Government hopes that railway patronage can hit 40%, the merger will benefit many members of the public.

After the rail merger, railway development in Hong Kong should be able to press ahead in full steam and railway will have greater competitive edge over other modes of public transport. I think more flexibility will be allowed in staff deployment, while the career and promotion prospects of employees should also be more promising than it is now. In the next three years, the new railway lines will create 1 300 job opportunities. It is hoped that MergeCo can absorb as many of the existing employees as possible and make suitable deployment to

minimize the number of layoffs resulting from the merger, in order not to affect staff morale. The KCRC has performed remarkably well in promoting localization, whereas the MTRCL has made very slow progress in this respect, which is disappointing. I hope that MergeCo can continue to do its utmost to take forward a policy of localization to ensure room for development for local railway talents.

In the course of discussion on the rail merger, some railway projects such as the Shatin to Central Link, South Island Line and West Island Line, have been held up. Of the \$600 billion investment on infrastructure as undertaken by the Government earlier, \$200 billion will be channelled to railway development projects, but most of the projects have made very slow progress. After the completion of the merger, the Government should expedite these railway projects, with a view to expanding and developing the local railway network to the benefit of more Hong Kong people.

Madam President, the rail merger is consistent with the long-term interest of Hong Kong people, and as the relevant arrangements have already been discussed by this Council, it should be implemented as soon as possible. With these remarks, I support the Second Reading of the Rail Merger Bill.

MR LEE WING-TAT (in Cantonese): President, on behalf of the Democratic Party, I wish to respond to the comments made by Selina CHOW against us.

As we all know, the scrutiny of the Rail Merger Bill has spanned less than one year. Strictly speaking, it started in July last year. We all know that over the years, many political parties have demanded a reduction in railway fares in view of a deflation of over 10% for many years. The Government has 75% of the shares of a railway corporation. We cannot allow it to ignore public views only to uphold the principle of commercial prudence.

Now, Selina CHOW is reversing the cause-and-effect relationship, as she takes the post-merger reduction of 10% or something over 10% in fares as a magnanimous favour from the Government. In fact, to a certain extent, only 25% of the shares of the railway corporation belong to the public, while the rest should belong to taxpayers because as the Government owns 75% of the shares, it means that these shares are owned by taxpayers. Why can Selina CHOW reverse the cause and the effect in making those remarks? Now that a

government-owned corporation has refused to reduce its fares despite the prevalence of deflation for years and its fares will not be reduced until the merger is supported and yet, she was describing this as a very good thing.

The Democratic Party has all along considered that we have expressed the demands of the public in the process. We do not think that what we have said constitute extortion, not to mention our views on the Shatin to Central Link. The construction of the Shatin to Central Link is an undertaking of the Government. Had there not been a rail merger, it would be completed for use by residents of New Territories East and Kowloon East in 2009. Did YEUNG Sum intend to threaten the Government in his comments on the South Island Line? I do not think so. Will Miriam LAU please ask residents of the Southern District and residents of Ap Lei Chau and Aberdeen and tell us what they think. Do they not also demand the South Island Line? When a directly-elected Member reflects the demand of the people and residents of the district, how could this be considered extortion?

The queries that we in the Democratic Party have expressed in the process are entirely made on a reasonable basis. Selina CHOW said earlier that competition did not exist between the two railway corporations and so, how could we question the merger on the ground of competition? She also mentioned earlier the tendering of the Shatin to Central Link. That is indicative of competition. I hope that Selina CHOW was not pretending that she did not recall it or she was not aware of what had happened. Insofar as the tendering of the Shatin to Central Link is concerned, when the KCRC was competing with the MTRCL, it was because property development above railway stations was unnecessary for the KCRC that the KCRC had been awarded the Shatin to Central Link, while the MTRCL had included some other conditions. This shows that where there is competition, there will be better options of railway development for taxpayers.

The most fallacious comment that I have heard today is the one made by Selina CHOW, that railway development would be expedited with only one railway corporation operating in the territory. Insofar as logic is concerned, this is the biggest, biggest fallacy that I have heard today. The Southern District is within the scope of the MTR on Hong Kong Island and while the MTRCL is the only railway corporation operating with absolute dominance on Hong Kong Island, have we seen the South Island Line? Mrs Selina CHOW, sober up, please. Your logic is so untenable. How can you be a Deputy Party

Chairman of the Liberal Party? How can you be a Member of the Executive Council? With regard to the West Island Line, I mean the MTR West Island Line, residents of the Western District have fought for it for so many years before it is given the green light. Again, the MTRCL is the only railway corporation operating with absolute dominance on Hong Kong Island. Has this rail line been built expeditiously? No, as far as I can see. I really think that Selina CHOW should take some courses on logic and then think about whether her logic can hold water or not.

What is more, the most important thing is whether or not the Government has listened to the views of the public. Does it intend to include railway development..... Is it asking the public to use public transport more often and including this as a major consideration in its traffic and transport strategy? If so, the development of railways may sometimes incur loss but in the long term and from a macro social perspective, we will eventually recover the loss. The loss will be recovered in a way that there will be less private cars on road and hence less traffic jams and less people having to spend a lot of time travelling to and from work during peak hours. These are referred to as externalities in economics. Those who studied in their first year of Economics in university..... I have not studied Economics, but I understand what it means from reading books. Selina CHOW, however, knows nothing about it, but she is pretending that she does.

President, she talked about fare reduction earlier on. Should we really be so happy with the reduction? Some fares will be reduced by 10% but we must bear in mind that insofar as the West Rail is concerned, many of its passengers are enjoying concessionary fares by using the "One-month Pass" and "Discovery Pass". So far, the Government has not made any undertaking as to whether or not it will extend these concessions which are offering a discount that even exceeds the 10% fare reduction. I wonder if Selina CHOW is "muddle-headed" or she really has no idea about this. The Government has only admitted that these concessions will continue to be provided until the end of this year, unless the Secretary will tell us today that she will extend these concessions after heeding the views of the residents of Tuen Mun, Yuen Long and Tin Shui Wai. Otherwise, the so-called 10% fare reduction will lead to a fare increase instead. If, as I have just said, the Secretary, the Government and the new railway corporation will offer these concessions only until the end of this year, passengers travelling from Yuen Long to Nam Cheong who may be paying \$10 in fare will have to pay \$11 or \$12 in future. Is this a true reduction in fares?

Mrs Selina CHOW said that efforts would be made to fight for a fare reduction again after the rail merger. This may be the logic of the Liberal Party: They are hypnotizing themselves, and they are deceiving themselves. The Government is unwilling to reduce the fares of the Light Rail and it is unwilling to openly make an undertaking of extending the concessions before the enactment of the Bill. Such being the case, I do not see how efforts would be made to fight for it again after the enactment of the Bill, as suggested by Mrs Selina CHOW. They are actually deceiving themselves and doping themselves. They, being members of the pro-government camp, are only trying to find a pretext that they consider to be graceful or righteous to support this decision of the Government. They actually know that the fares will not be reduced. Why do they not tell residents of New Territories West candidly that the fares of the Light Rail will not be reduced and that the monthly pass will be abolished at the end of the year because there is no undertaking? It is just this simple.

President, as I listened to Mr CHEUNG Hok-ming's speech earlier, I found it even more puzzling. He applied some sort of logic, saying that the fare reductions are a good thing to the residents. But he did not answer the question of whether or not the Government has given us any undertaking in respect of the "One-month Pass" or "Discovery Pass". If there is no undertaking, the fare reduction would lead to a fare increase instead.

If members of the public or Members of this Council go to Tuen Mun and New Territories West, they will find banners and posters everywhere which read, "Ongoing effort made by the DAB to fight for lower Light Rail fares". Having seen this, I must ask why some political parties can be so shameless? The DAB knows only too well that they have fought for a fare reduction by the Light Rail for a long time but in vain. Members of the Democratic Party have broken into the rail track twice and put up a 24-hour hunger strike. Many people have fought for it but the Government has refused to budge. If the Government is willing to make a concession today, I would very much welcome that, but I have not heard that the Government is going to make such concession. Yet, they have been putting up these banners everywhere about making an ongoing effort to fight for lower Light Rail fares. I would like the DAB to explain this, and they can give us a reply. This is a shameless act. They know only too well that the fares will not be reduced and yet, they are still hanging these banners and posters and withholding the truth from the people. The Government has not undertaken that the fares will be reduced throughout our scrutiny of the Bill.

Besides, I attended the meeting of the Traffic and Transport Committee of the Tuen Mun District Council on 11 May. Many DC members attended the meeting, including CHAN Wan-sang, TSUI Fan, LEE Hung-sham and SO Oi-kwan of the DAB, and I think they had spoken with great enthusiasm that they would definitely strive for a fare reduction by the Light Rail for residents of Tuen Mun. A motion was also carried, and I think these members who attended the meeting should have expressed support for the motion which urged Members of the Legislative Council to oppose this Bill if the Government refused to make an undertaking of a reduction in Light Rail fares.

Now, is this a split personality of the DAB? Their DC members have put up banners vowing to continuously strive for fare reduction by the Light Rail and they spoke vehemently demanding a fare reduction in the Traffic and Transport Committee of Tuen Mun District Council and they even supported a motion urging all Members of the Legislative Council not to endorse this Bill if the Light Rail refused to reduce it fares. What did Mr CHEUNG Hok-ming say earlier? Has he reflected the view of his fellow party members? With regard to his decision, has the DAB consulted the views of the residents of Tuen Mun, Tin Shui Wai and Yuen Long?

President, I still do not know the position of the Hong Kong Federation of Trade Unions (FTU). Why do I mention the FTU? As Mr WONG Kwok-hing did not have enough time to finish his speech earlier on, I do not know what his position is. In the Bills Committee, the several Members of the FTU strongly demanded that efforts be made to fight for the interest of the grassroots by making the Light Rail reduce its fares. Two of their fellow party members, namely, Miss CHAN Yuen-han and Mr KWONG Chi-kin, have not yet spoken. I do not wish to see what happened before happen again. I remember that two years ago when we discussed the provision of funding for the Tsing Yi Chemical Waste Treatment Centre at a meeting of the Legislative Council Finance Committee, Mr WONG Kwok-hing said vociferously that he opposed the proposal. But then, Miss CHAN Yuen-han and Mr KWONG Chi-kin supported it. So, they can vote in two different ways although they belong to the same organization. How smart they are!

On that occasion, Mr CHEUNG Hok-ming also did the same thing. Mr CHEUNG Hok-ming opposed the proposal. So did Mr TAM Yiu-chung, whereas eight other Members of the DAB supported it. This is split personality of the DAB. What exactly are they doing? Certainly, Mr CHEUNG

Hok-ming said today that he supported the Government and so, a split will not occur as it seems that all of their 10 votes are in support of the Government. I wonder if the FTU will employ the same tactics again by casting one opposition vote and two supporting votes.

President, Mr Albert HO already explained many of our viewpoints on the merger. I would only reiterate the position of the Democratic Party. We do not invariably oppose all merger and privatization proposals. The Government actually knows that we did state in our party platform that we support the privatization of tunnels and bridges. Why are we so strongly opposed to this proposed merger? It is because in the process, the Government has not considered public opinions as a factor of overriding importance. The Government has not given the 1 million residents of New Territories West.....not even the humblest concession of reducing the fare of each journey by tens of cents on the ground that a loss will be incurred. What loss will be incurred? The East Island Line will incur a loss; the West Rail will incur a loss; and the Ma On Shan Line will incur a loss. But will there not be synergies? I do not think that no synergy could be achieved. This is just an excuse.

President, we can also see how viciously and unreasonably the Government has acted in the process. The Government has refused to make the slightest concession in respect of the provision of fare concession to people with disabilities. We have campaigned for it for such a long time, and as the Government owns 75% of the shares of the MTRCL, will the authorities ask themselves honestly whether they have fulfilled their corporate responsibilities or not? I remember that during a meeting with Secretary Dr Sarah LIAO, I expressed the view that if the Government considered the commitment too big, the Democratic Party could consider setting a limit, such as capping the provision of this concession at \$30 million or \$50 million per annum, and requiring people with disabilities to meet part of the fares, which is feasible and yet, the Government did not agree. We have a surplus of over \$50 billion last year and what does the Democratic Party propose? What we are talking about is 0.1% or 0.05% of the surplus, but the Government refused to spend this \$30 million. I actually did not bring up this proposal for discussion in my party. I think the Government should at least take a step forward and do something for people with disabilities, but it is still reluctant to do so and has passed the buck to Secretary Dr York CHOW. Honestly speaking, if the two Directors of Bureau have the sincerity to discuss this issue, tell me: How complicated is this issue? All the necessary discussions have been completed and all the studies that need to be conducted have been completed.

So, President, all I can say is that insofar as this proposed merger is concerned, I think the scrutiny of the Bill is a most unhappy experience. I have been a Member of this Council since 1991, except in 1997 when I was not a Member of the Provisional Legislative Council and also for the term from 2000 to 2004. I think I have been a Member of this council for over a decade. The scrutiny of this Bill is a most unhappy experience, not because it was tiring to attend all the meetings. It is because there is no room at all for discussion with the Government and no exchange was possible. I do not understand the reasons for this. Even though the demands raised by some colleagues were very humble, the Government adamantly refused to make any concession. Is it meant to show that a strong executive-led government must act in such a way? The Democratic Party has no choice. We will oppose the resumed the Second Reading of the Bill.

MRS SELINA CHOW (in Cantonese): President, there is a point in the contents of Mr LEE Wing-tat's speech which is not correct. I wish to seek a clarification on it.

PRESIDENT (in Cantonese): You wish to make a clarification of your speech, right?

MRS SELINA CHOW (in Cantonese): Yes, because he has mentioned my speech. He has said that I have not asked the railway corporation to extend some concessions. I do not know whether he was here earlier or whether he had listened to my speech. I said very clearly that all the concessions should be extended. And my view is that these concessions should be extended like the concessions offered by other railways. Actually, this means that they should be extended to 2009. We know that the undertaking made is that they will be extended to 2009. So in fact they should run to 2009. I hope he would not make any point recklessly about what he may not have heard so clearly or has not even heard at all.

PRESIDENT (in Cantonese): Do you wish to make a clarification of your speech?

MR LEE WING-TAT (in Cantonese): She has mentioned my name. But what she has quoted is wrong. I only said that if she would say to members of the public after the law had been passed that she would fight for them a reduction in the fares of the Light Rail and also fight for more concessions, then it would just be building a castle in the air and indulging in self-induced fantasies. If she wanted to fight, she had to do it now. This was what I said.

MRS SELINA CHOW (in Cantonese): President, it was what Mr LEE Wing-tat said earlier. There is no doubt about it. But the way he put it makes people think that what I want is just to get the law passed, instead of fighting for anything. This is actually not like this. I was saying that this should be done even as the merger is underway. That is why I wish to make a clarification. Thank you, President.

MR ALBERT HO (in Cantonese): Can I request Mrs Selina CHOW to clarify again what she has just said?

PRESIDENT (in Cantonese): This is not permitted in the Rules of Procedure. There is no such rule for it.

DR KWOK KA-KI (in Cantonese): The subject of our discussion today is the Rail Merger Bill. Basically, from either the administrative or efficiency angle, no one should object to the rail merger. Actually, the Government has taken out some carrots. Among others, the MTRCL stated in an earlier advertising campaign in all MTR stations and even on television that the public would stand to lose should the Legislative Council delay the rail merger by whatever means. It was only until colleagues in this Council pointed out forcefully the fallacies therein by stating clearly that what they strived for was not only fare reduction due to the public but also greater public interest that the advertisement was eventually lifted by the MTRCL.

Given that the Government, the two railway corporations and Members of this Council have all considered public interest to be their common interest, there ought not to be so many differences. However, I heard a lot of diverse views in Members' speeches. A number of colleagues in this Council with

different stances have even resorted to attacking one another. I have a lot of feelings about it. As Members are aware, the two railways (the KCRC in particular) are wholly owned by the Government. Even the MTRCL is 75% owned by the Government. Their priority and foremost task is to protect the interest of the public (especially commuters). However, we can see that, upon the passage of this legislation, many issues will still remain uncertain and undecided.

Last Sunday, I joined some colleagues of this Council and some people with disabilities for the third year to protest at the Hong Kong Station calling on the Government to alter certain practices the MTRCL has been reluctant to change — to offer half-price concessionary fares to people with disabilities. Both the Government and the MTRCL share the view that we can sit down and discuss after the passage of the Bill, and that a group has been designated to discuss the matter.

Madam President, it is not that the group has not discussed the matter. Actually, an extended discussion on transport concessions was already held earlier in this Council. Basically, both the Government and the MTRCL were unwilling to make any concession. Why can a system largely, or even wholly, owned by the Government disregard the requests of people with disabilities? We have been frequently calling for social or private enterprises to honour their social responsibilities and corporate conscience. We might also encourage or request certain bus, taxi or public light bus operators to offer concessionary fares. Why are the two railway corporations — operated by the Government or mainly with public money — allowed to act indifferently to the calls?

On being criticized, the MTRCL would say that the interest of its shareholders, being its paramount consideration, was at stake. We have already seen instances like this one. The Link REIT has indeed taught us a good lesson. I do not hope this rail merger will become another regrettable instance. All supposedly reasonable public requests have to be sacrificed as a result of the so-called reasonable financial benefits or rights and interests of shareholders. We can see that the Bill today has paved a bright path for the future. It will be deemed perfectly reasonable for anyone to attempt to stifle public interest on the pretext of shareholders' interest.

Second, during the scrutiny of the Bill, there were some practical and concrete matters — Madam President, they are just trivial matters. For instance, the MTRCL, which will become the major management corporation for

the KCRC or upon the merger, has indicated that it is technically impossible to install toilets. This is really a big joke — Dr Raymond HO from the engineering constituency is not here at the moment. However, I have been told by an engineer that this is really laughable. In Hong Kong nowadays, it is absolutely ridiculous that the MTRCL should have even said something like it is incapable of installing toilets.

Even if the MTRCL does not wish to do so, it should find a better excuse by pointing out that the MTRCL will incur losses or make less money, instead of saying that this is technically impossible. Even such a simple request is rejected. Some colleagues in this Council have, however, responded that there is no problem and the matter can be discussed in greater detail and reconsidered after the merger. What does the merger mean? Does it represent everything and mean that everything will be better? The merger represents a change from the existence of two competing railways in Hong Kong to the monopolization of Hong Kong's entire railway transport system by a single railway corporation.

During the Question Time in this Council earlier today, we discussed ways to provide grid access and encourage more people to operate as power suppliers and provide grid access with a view to lowering electricity tariffs. We seemed to have completely forgotten this matter and then said that the synergies would work perfectly well. If this principle is applied, then all bus companies, power suppliers, and other companies should be merged. Even one single real estate agent can already serve the whole territory. This is the easiest solution, for everything can thus come under control.

We were able to come up with a more concrete proposal to develop the Shatin to Central Link (SCL) during our discussion obviously because of the competition between the two railway corporations. Given the tender, the SCL was awarded to the KCRC at that time. Today, however, the chances of the plan being implemented are very slim. No government officials or senior managers of the MTRCL can promise us that the entire SCL project will be completed in the foreseeable future.

Second, we can see that the KCRC will be handed over to the MTRCL for management. It does not matter if only the KCRC railway is sold, but this is not the case now. What is sold this time is not only the KCRC railway, but also the KCRC's right to develop properties along the railway line at an incredibly

low price of \$7.79 billion — Mr Abraham SHEK is a representative of the real estate sector. I believe this is really a bargain because the Government has to pay a large sum in "dowry" out of taxpayers' money to "get its daughter married". Members should be aware that property prices or land prices in Hong Kong are often subsidized. A great number of public utilities (especially railways) are also subsidized to enable railways to operate with a reasonable profit. Whenever this point was mentioned during our discussions, the Government would say that it did not care and no tender would be required. The matter would be considered settled after an offer had been made. However, the requests we made then for fare reduction, concessions or fulfillment of social responsibilities would all end up being rejected. We would be told by the Government to wait and discuss the matter later after signing the agreement to give the biggest share of the pork to the MTRCL. How can public interest be protected? Where is public interest?

I heard a colleague say earlier that Members of this Council should not hold others to ransom. I am afraid I will be accused after my speech of making threats again. What threats have I made? Will it bring me any benefit? What benefit will I gain? Nothing at all. We only hope to, with the imminent merger, speak a fair word for the public. Fares should be reduced because effectiveness can be raised as a result of synergies. However, this fare reduction is no act of benevolence.

It is quite disturbing that many erroneous initiatives and policies have not been rectified during this discussion. We have no idea how many more times we still have to petition for people with disabilities year after year, and month after month, by making some extremely humble requests on their behalf. Even the request for providing half-priced concessionary fares is not accepted. What does social responsibility mean? It is hypocritical of the Government to merely encourage others to do so.

As the largest shareholder, the Government will treat this as a separate issue while protecting such public interest by alleging that it is related to the future interest of the railway corporation and unrelated to the Government. To put it somewhat crudely, and as Members should be aware, this can actually be considered as "collaboration". The Government has a dual identity — it is a god as well as a ghost; it is a shareholder as well as a director. After pushing for reform and the merger, the Government said that it could not take charge of these matters, and they have to be resolved by the railway corporation. What is it if such an act is not considered irresponsible?

For the sake of public interest and achieving synergies, and to enable members of the public to enjoy an immediate fare reduction, we cannot possibly object to the merger. However, if under such a situation of uncertainties and with so many requests made by the public — including the accusation of selling public assets at dirt-cheap prices and some minimum requests, such as offering concessionary fares and certain essential services (such as the provision of toilets) to people with disabilities, and if we fail to clarify these unsolved issues, thus resulting in the passage of the Bill by this Council, I believe the public will definitely question us in future whether we have considered the Bill clearly and whether we are aware that, in voting for the Bill, we will make them suffer as a result of the future monopolization of the railway by one single corporation and subject them to constant suffering as a result of a lack of competition and protection in law. The Legislative Council today will then be considered a accomplice in making such things happen.

As we have so many colleagues here — I am not a directly-elected Member either — and when we have so many directly-elected Members speaking on behalf of the interest of different people and districts, should we not consider carefully when casting our votes the impact of the merger on the territory's overall transport, the fare pressure to be borne by the people in the future and the way the railway development meets the needs of the people in their daily life? We should assume a greater share of the responsibility. At this point, we should understand that the casting of votes actually boils down to a case of whether we are acting according to our conscience or not. It has nothing to do with whether or not we are casting a sacred vote.

I so submit. Thank you, Madam President.

MR ABRAHAM SHEK: Madam President, today must be a great day for the MTR for its MergeCo train. It is not only seeing light at the end of the tunnel, but also, the train in fact is moving out of the tunnel of waiting and uncertainty. Hopefully, many millions of passengers will benefit from the passage of this Bill, if it is passed today, with a fare reduction which they rightfully deserve. Today also marks the end of an era, an era of traditional railway institution of the former Kowloon-Canton Railway and the present KCRC which is totally different from that of the MTR. As a present Board Member of the KCRC and an ex-employee of the KCRC, I feel sad to see the company's operation evaporating into oblivion. What is left is its history of 87 years of exemplary service to the public.

The thousands of staff of the KCRC and ex-KCRC staff like me will surely miss a great institution like the KCRC, the contribution and dedication of which are to provide first-class rail service in the New Territories. Many of us in the KCRC would like the Corporation to maintain its *status quo*, but as good railwaymen and keeping the good rail tradition of obedience and providing service to the travelling public, we support the rail merger and believe that the merger could work for the greater good of the public.

Some said the merger provides a solution to improve on the bad management of the KCRC. This is a false allegation and reflects on their lack of understanding and ignorance of a first-class company like the KCRC. The KCRC holds a good record in reliability and service performance, and is *pari passu* with that of the MTRC in reputation worldwide. It is one of the best-run railway companies and is run by a team of dedicated railwaymen. They are not politicians. They do not know how to handle politics. They work very hard to provide good and safe rail services. Madam President, the merger of the two companies was introduced mainly on economic basis, not for some of the reasons which some of my colleagues stated here earlier.

Madam President, I would also like to pay respect to members, and especially the Chairlady, of the Bills Committee for the collective time and energy spent in the 37 meetings, totalling over 82 hours.

There were criticisms made directly or indirectly or unintentionally by the MTRC, and possibly the Government, on the slow pace of progress in the scrutinization of the Bill during the past year. These criticisms and allegations were unfounded and uncalled for, and they unnecessarily challenged the work and duty of the legislators. I must say that these people in the Corporation have less faith in the merger proposal than those of us in this Chamber. Members of this Council have worked exceedingly hard to produce this Bill in today's meeting, as evidenced in this resumption of its Second Reading. I hope the future MergeCo will understand and respect the role and duty of the legislators of this Council in protecting the interests of the public, for we are the custodian of public interests.

Madam President, the multitude of the topics discussed, deliberated, agreed and disagreed upon in the 37 meetings are all thought-provoking and well-intentioned. They form the basis for service improvement by the future MergeCo. The recommendations made as a result of the collective wisdom of

Members in this Chamber are a reflection of the wishes and aspiration of the people of Hong Kong, and issues such as toilets, service and performance monitors, penalty schemes, concessionary fares, special treatment for the handicapped and the elderly, and so on, are all soul-searching subjects, and they must be reviewed and explored by the new MergeCo.

Madam President, even if the Bill were to be passed today in the absence of an agreement to the above issues, I must reiterate and warn the new MergeCo that it must resolve these sensitive subjects, or it will be haunted continuously and fiercely by this Council. With the likely passage of the Bill today, what the MTRC gains is possibly a breathing space for it to ponder and reflect on service improvement on those issues which I have earlier discussed. In today's debate, there are criticisms that the Light Rail passengers are being deprived of fare reduction. Yes, this is the truth but the answer is the KCRC cannot further reduce the already low fare, and over the last many years, it has lost a lot of money in the operation. Simply, it cannot afford to reduce fare further.

Under its present statutory obligation, the KCRC has provided the best service and fare to the Light Rail passengers. Despite the earlier losses which I said earlier that it has sustained over the years, I am of the opinion that it is about time for the future MergeCo and the Government to have a good and hard look into Light Rail operations.

Another thorny subject is that of the land link rail concept, that is, providing land to subsidize rail development. This concept has proven to be very successful in the past and the present, giving us first-class rail services throughout the territory. The sale of development rights of the eight KCRC sites is being questioned, but again, it is part and parcel of the whole merger package in which land is used as a subsidizing agent for fare stabilization.

Valuation of the eight sites was also subject to criticism, but one must understand that land valuation is not science, it is an art, an art which reflects the market value of the time. Land development is also a high-risk business, as evidenced throughout the period of 1997 to 2003, the dark years of Hong Kong which we have seen land value dropped by 80%. The upfront \$8 billion payment by the MTRC for the eight sites may not be the highest price, but it is a sure win for the Government with no downside risk. It needs only to take the money and kiss the sites goodbye. The Government is not in the business of taking such a risk in property development.

While on the subject of property development, criticisms were also levied in this Chamber on the developers for building walled developments along the railway lines. I must point out that the developers build what they have paid and tendered for, not a square foot more, not a square foot less. The specifications for the development were dictated by the railway corporations in their tenders, and I urge the future MergeCo to address this environmental development issue.

Also, I strongly urge the new MergeCo to take a proactive step in public relations in its future fare adjustment, be it up or down, and it should come and advise this Council as soon as possible, for Members of this Council represent over 1.6 million voters of Hong Kong.

Finally, Madam President, I would like to pay tribute to the former staff of the Kowloon-Canton Railway, then a government department, and the thousands of staff of the KCRC for the exemplary and dedicated service rendered to Hong Kong for the past 87 years. Unlike some politicians' criticisms, I must say to them that history will be kind to them, for they have provided one of the best services to Hong Kong. Thank you.

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

MR TAM YIU-CHUNG (in Cantonese): President, Mr CHEUNG Hok-ming and I are both Members of the Legislative Council representing New Territories West, therefore, all along, we value the views of residents of Tuen Mun and Yuen Long on external transport links. Moreover, I also fully understand the views expressed by residents on service improvement of the West Rail and the Light Rail. In the past several years, we have made a lot of efforts and also taken quite a number of actions, including displaying a lot of banners, as Mr LEE Wing-tat said just now and this is the truth. We have organized a number of signature campaigns and held a number of meetings with the Government and the KCRC to convey the views. The views consist of several main points about fares and various kinds of interchange concessions relating to the Light Rail. We stress that the One-Month Pass and Discovery Pass of the West Rail must be retained. As regards increasing the number of carriages of the Light Rail trains, this has also been discussed for many years, however, the Light Rail Division maintains that it has been running at a loss and the carriages are very

expensive, so there is a great deal of difficulty. However, we said that this would not do because if the carriages were insufficient, it was practically impossible for residents to squeeze into them during rush hours. Moreover, since the number of routes has been reduced, carriages were only redeployed to cope with this situation. This is just like having only six or seven lids for 10 pots or even less.

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

Therefore, we cannot stress enough that it is necessary to increase the number of carriages. If this cannot be done for the time being as it takes time to order them, still, we hope that the feeder bus service can be enhanced and fares for short trips between Tuen Mun and Yuen Long on the West Rail can be introduced. Concerning these proposals, we have already said a lot and held a number of meetings for this purpose. Some headway have been made in some of them, but some of the promises made are not firm enough. In view of this, we hope and residents of Tuen Mun and Yuen Long also hope very much that by virtue of this rail merger, a so-called synergy can be achieved so that the services of the West Rail and Light Rail can benefit from it. For example, at the very least, the One-Month Pass and Discovery Pass of the West Rail as pointed out by us must be retained for long term, instead of conducting a review every six months, as is the case now. Every time a review was conducted, everyone would be very concerned that the concession would be cancelled, that the fares would be restored to their original level after the promotional period. If this is the case, everyone will face difficulties. In addition, we hope that the feeder bus service can be enhanced and this issue has also been discussed for a long time. We think it would be best if the Secretary can respond positively and make some pledges in her speech on the Second Reading later on, so that residents can have greater confidence in the merger.

We have also held many meetings concerning the rail merger with the District Council members of these districts. When scrutinizing the Rail Merger Bill, Members in fact spent a lot of time on the fare concessions of the KCR and the MTR. Members of the Democratic Party, including Mr Andrew CHENG, also said that if fare concessions were offered, the Democratic Party would support the rail merger and he said so very clearly. However, they have probably changed their minds again. I am not quite sure whether this can be

called "split party personality" or what. They have many descriptions of this sort and I just cannot sort it out. I learned that the Democratic Party had hung banners in North District and Tai Po, claiming that they had campaigned successfully for a reduction of the fares of the two railway networks and this is the fact. Therefore, when Mr LEE Wing-tat said that we were "shameless" or "shameful", I just could not understand it. But I think he is lashing out at others when he is in the wrong because there is no knowing how split their personality is. Anyway, from the views collected from the residents of Tuen Mun and Yuen Long by means of a questionnaire survey, we learned that they feel distinctly that there is enormous room for improvement in the services provided by the Light Rail and the West Rail and they also hope that a number of concessions can be retained and remain unchanged. However, at the same time, they are not adamantly opposed to the rail merger. They have not gone that far. They support the merger and hope that through the merger, the management and services can be improved and the burden of the public can be lightened. At the same time, they also hope that the synergy can be felt in the future after the merger so that members of the public throughout Hong Kong, including those in Tuen Mun and Yuen Long, can benefit from it.

I believe that since residents of Tuen Mun and Yuen Long also travel out of the districts, so similarly, they will also benefit in terms of fares. In addition, they will probably see that this concession applies to all of Hong Kong, so even though residents of Tuen Mun and Yuen Long cannot benefit from the fares, since residents of the other 16 districts can all benefit from them, I believe they will also consider this matter from a wider perspective. Therefore, we found that the absolute majority, that is, over 70% of the residents in Tuen Mun and Yuen Long actually support the merger. They all understand and will not reject everything just because the fares of the Light Rail are not reduced. However, they are all waiting eagerly and hope that the Government and the two railway corporations will seriously consider the views of the residents in Tuen Mun and Yuen Long. I think their demands are highly justified.

Finally, I wish to raise one more point. It seems I could hear — because I was not present — Ms Emily LAU attack us. We in the DAB usually do not want to bicker with others because we are all nice guys and nice ladies. We are all genteel people who do not like to bicker with others. However, we think that fare concessions for people with disabilities are worthy of support and I myself am also a member of the relevant subcommittee, so I also believe the Government has to give this matter consideration. However, the Government

sometimes puts up the excuse that some corporations did not agree to this and believed that it will impose a heavy burden on them.....

MS EMILY LAU (in Cantonese): Deputy President, I have a question. Do I have an opportunity later to elucidate my remarks?

DEPUTY PRESIDENT (in Cantonese): If you wish to elucidate your own speech, you may do so after Mr TAM Yiu-chung has delivered his speech.

MS EMILY LAU (in Cantonese): Fine. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Mr TAM Yiu-chung, you may continue.

MR TAM YIU-CHUNG (in Cantonese): I am now speaking on behalf of the DAB that we support the motion, only that we are trying to seek some sort of solutions. If some corporations consider it to be a kind of welfare, and that they should not assume the responsibility, I think the Government, including the two Policy Secretaries, namely the Secretary for Health, Welfare and Food (or the future Secretary for Labour and Welfare) and the Secretary for the Environment, Transport and Works, will have to come up with a solution. I hope they can do so at an early date.

Having said that, Deputy President, as pointed out by my colleagues earlier, we will support the principal legislation on the rail merger.

MS EMILY LAU (in Cantonese): Deputy President, my remarks just now were not meant to attack the DAB. Instead, I was merely requesting the DAB and the Hong Kong Federation of Trade Unions (FTU) to explain how they are going to support the disadvantaged. As pointed out by Mr TAM Yiu-chung just now, they will take this opportunity today to tell the authorities that they support fare reduction by the Light Rail and people with disabilities. Should the authorities

fail to make any response, they will vote against the Bill. I feel that something is going to happen. Moreover, the votes are in the hands of the DAB and the FTU. I have no intention at all to attack them. Today is the perfect opportunity for them to manifest their great support, is it not? Deputy President, I merely wish to invite the DAB and the FTU to make their requests, for these two matters are precisely what they have requested the Government to deal with. It was what I said earlier. Thank you, Deputy President.

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

MR LAU KONG-WAH (in Cantonese): Deputy President, I wish to elucidate in connection with the reference to the DAB by Ms Emily LAU just now.

DEPUTY PRESIDENT (in Cantonese): It is not your turn to speak. Please sit down.

Does any other Member wish to speak? If not, I now call upon the Secretary for the Environment, Transport and Works.....

(Mr James TO indicated his wish to speak)

MR JAMES TO (in Cantonese): Deputy President, many views have been expressed by Honourable colleagues. During the past couple of days, however, one point was suddenly hotly debated and the MTRCL's right to develop a number of superstructures has become a matter of special concern to an interest group. The fact that such right brings the property management right in future has been particularly raised by an interest group in Kowloon West. Undeniably, a number of major construction sites in Kowloon West, including the site of The Waterfront, belong to the MTRCL. With the right to develop and manage station superstructures and the granting of some exemptions in law, the railway corporation has effectively become an independent kingdom, thus giving rise to numerous problems of injustice and highlighting the many problems arising from the acquisition of these rights by the MTRCL. Perhaps I should say a few words on this. Of course, issues of great complexity are involved here.

Owing to such exemptions, the MTRCL is not required to observe certain transport regulations. Not only can it manoeuvre in terms of town planning, it is not obliged to comply with a number of management laws, except for some fundamental laws of a very general nature. If it is responsible, it will exercise such rights responsibly. But regrettably, it seems to me that public safety is not taken into consideration in many cases. For instance, according to general transport requirements, the width of a road surface should measure, say, more than 4 m. However, the MTRCL may narrow a road surface. It may also, for instance, for commercial reasons, retain the right to revise the provisions in the Deed of Mutual Covenant (DMC) of a building or a sales agreement. I only agree that the MTRCL should be allowed to make some reasonable revision, given that it is a corporation.

It has been recorded that Mr Thomas HO, Property Director of the MTRCL, has even stated in a meeting that the MTRCL is not a private corporation which is obliged to assume social responsibilities. It is most strange that he should have made such a remark. Of course, being a listed corporation, the MTRCL is essentially a private corporation. But I believe even many corporations, which are not 75% owned by the Government, will not dare to say anything like that. The fact that the MTRCL has acted in this manner on numerous occasions does show that its way of thinking is grossly irrational. If it can go on acquiring so many development rights and privileges in law so that it can act as an independent kingdom, will it be beneficial to society at large? I have great doubts about it.

I have not participated in the scrutiny of the relevant legislation. Nevertheless, I am a directly elected Member. Moreover, many of our voters have to travel on MTR and KCR every day. The final outcome of the merger might deprive them of significant benefits after giving them some small gains. What they gain may just probably be a short-term fare reduction on certain routes. Furthermore, the fare reduction might only result in a greater rate of reduction for routes charging cheaper fares. For routes charging higher fares or expecting higher fare increases, the fares might become even higher. Therefore, if we calculate by averaging the higher and lower fares, some fare concessions are possible in the short term. However, just as what was pointed out by a number of colleagues earlier, many major principles and regional links, such as the Shatin to Central Link (SCL) and the railway line serving the Southern District, will have to be given up in the long run, and no undertaking whatsoever has been made. Furthermore, the right to develop railway superstructures will

have to be given up too. At the same time, the MTRCL will grow even bigger by monopolizing a lot of development and management rights. In the end, public surveillance through this Council will no longer be possible. Government regulation and even the rights of this Council to discussion and consultation will cease to exist as well.

Of course, Members may ask if this Council enjoys much right to consultation. However, should the MTRCL insist that this Council should not enjoy any right to consultation, it will be easy to imagine what it really wants and how far it puts profits before everything, respects the representatives of the public, and respects itself as a public transport carrier with millions of passenger trips daily. How can public interest be balanced? The MTRCL considers that even the most fundamental consultation right should not be provided in the legislation in the belief that it can thus continue to convince some financing institutions or financial analysts, or even better satisfy its shareholders. However, I think that the MTRCL has gone far away from public interest in doing so.

Many people, particularly those living in Kowloon West, to which I belong, have once held this view. (Of course, I am aware of Mr Frederick FUNG's remark that there are some disputes between some members of the Hong Kong Association for Democracy and People's Livelihood serving as District Council members in urban areas and rural areas respectively. I can see that the reality before the people in Kowloon West, particularly many of those living in the vicinity of Hung Hom and Whampoa, is that the Government owes Whampoa residents a railway line or a public transport carrier. Even though their campaign has lasted almost two decades, the Government has still not repaid its debt by building a railway line. I hope the Government can make use of the merger and..... intense preparation has originally been going on. If not for the rail merger, the project might have already been finalized. Owing to the rail merger, however, it is now postponed without even an undertaking.

There was somehow a certain degree of competition between the two railways when they were operated by two different railway corporations. Both parties had come up with brilliant ideas to improve services. As a result, the Government had been able to compare their proposals in detail to determine which ones were better. Perhaps due to their wish to secure a larger market share and due to the fact that they could still compete by initially incurring a loss

and making a profit later or initially make a profit and incurring a loss later, the two railway corporations would still be willing to build the Whampoa spur line, even though their calculations had shown that the spur line was not entirely viable. Once the merger is effected, however, the two railway corporations will become one single corporation. Given its enormous market shares, will it still calculate or have the interest in taking care of the interest of Whampoa residents — I should say the debt the Government owes to Whampoa residents by building a railway line instead of saying the interest of residents? This is really worrying to me.

During the signature campaign I told the residents living in Whampoa and Kowloon West this matter, and the residents realized that they would end up giving up significant benefits after getting small gains as a result of the merger. At this critical juncture, the paramount consideration is that the importance of the railway and the convenience thus provided are far better than the so-called fare reduction in the short run. Moreover, the one- or two-year fare guarantee or fare-reduction guarantee can simply not offset the fares to be calculated in the future in accordance with the mechanism, including inflation, or for the sake of stabilizing fares under the Railway Development Fund (which is opposed by a number of colleagues). In spite of this, the earnings of the shareholders of the MTRCL or the future railway corporation will probably be quite generous.

This has been possible probably because the MTRCL was previously allowed to revise any plans as it wished. Even if public safety and interest were affected, it could still go ahead purely for the sake of safeguarding its own interest. Of course, its justification was to make profit. In the mind of the MTRCL, profit is 100 or 1 000 times more important than public interest. This is the present approach taken by the MTRCL. Of course, some people may say, "James TO, what you are talking about might apply to only a few housing estates. It is probably the case that a certain portion of a certain housing estate has been occupied by the MTRCL for conversion into a ventilation system." The fact is, even though it was stated in sales brochures that a property had a garden view, the view could still be turned into that of a ventilation opening of a shopping arcade by the MTRCL after tendering a word of apology. However, it should be borne in mind that such property development as The Waterfront was sold at an exorbitant price of \$7,000 to \$9,000 per sq ft. Under such circumstances, will the residents be convinced?

A sea view can be used as a selling point during the sales of flats. Then, an application may be lodged with the Town Planning Board (TPB) for revision of plans. In doing so, one more row of buildings can be built in front of the completed buildings, and a sea view can then be used yet again as a selling point when the newly-built buildings are put on sale. Some people will probably ask this question: Why will the TPB still give approval? This is because when the first batch of uncompleted flats is put on sale, the newly completed buildings are still not occupied. People living in the vicinity will not be concerned about the location of the buildings to be completed later and raise objection to the TPB, because the buildings in front of them are not yet occupied. Under the circumstances that the sold buildings are not occupied and the property buyers will not make frequent visits to inspect the state of the neighbourhood, the MTRCL has often been able to conceal its secret agenda. Actually, the railway corporation is putting money before everything. Even if the two buildings on the original plan will not possibly create any "wall effect", the two buildings can eventually be turned into four screen-like buildings. Is the MTRCL doing this in the interest of society? Should a corporation honoring social responsibilities do something like this?

With respect to the Rail Merger Bill, we must seriously consider whether the merger should be effected in the existing manner where nothing can be done and no promises or improvements are made. Can the meagre benefit offered ensure that safeguards will be provided by the Bill? Furthermore, after the passage of the Bill, the Government will not be able to make it do anything. Even the Chief Executive, not to mention Secretary Dr Sarah LIAO or any other Directors of Bureau, cannot do anything. So long as it has the right to do so, it will do anything it possibly can and seek the benefit legally derived from the relevant rights by all means.

Under such circumstances, even if a democratic government elected by "one person, one vote" comes into being in the future, nothing can be done, except for the law being amended to turn the MTRCL into a listed corporation and even allow the public to be its shareholders. What will have to be considered by then? As with the present case of acquiring the tunnels, the MTRCL will surely make unreasonable requests by then to ask for a sky-high price. Actually, if we lose this battle and fail to take this critical step, coupled with formalization by law, the MTRCL will no longer be regulated. By then, this Council and even the Government, the future Chief Executive or the directly elected Chief Executive will be unable to do anything with it. Unless the

Government is willing to pay a high price and amend the law after making compensations, there is no way to effectively regulate the MTRCL.

Today, I have to put this on record and tell the public that should they encounter any hardship in the future, they may as well ask which Members are in this Council today, what votes they have cast, what they have said in their speeches, and how they have analyzed the Bill. Today is an important milestone, and a demon-detector is now available.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Deputy President, first of all, I must extend my heartfelt thanks to all members of the Bills Committee, its Chairman, Ms Miriam LAU, and its Deputy Chairman, Mr TAM Yiu-chung, for devoting their valuable time and efforts to the scrutiny of the Rail Merger Bill (the Bill), thus making it possible to resume the Second Reading debate of the Bill today.

Since we tabled the Bill before the Legislative Council in July last year, the Bills Committee has convened 37 meetings lasting 80 hours over the past 10 months. The Bills Committee has conducted thorough discussions on the major proposals in the rail merger package, all the provisions of the integrated Operating Agreement (IOA) and each and every clause of the Bill, and valuable suggestions were made in the process. I am especially thankful to Ms Miriam LAU for her excellent leadership throughout the entire deliberation process, as a result of which the Bills Committee has managed to complete systematic discussions on all relevant issues and clauses. Bills Committee members have had sufficient opportunities to voice their views as a result, and the Government has also been able to offer explanation and appropriate replies in response to Members' opinions.

The rail merger will have significant impacts on our railway development in the future. The railway systems provide us with a safe, highly efficient, reliable and environmentally-friendly transport network. The development of Hong Kong's railway systems is a success story. After years of development, Hong Kong has come to be recognized by the world as in the vanguard of railway development. And, the Mass Transit Railway (MTR) and the Kowloon-Canton Railway (KCR) are now recognized worldwide as two of the most advanced and successful railway systems. Looking ahead, we must ensure the long-term and sustainable development of our railway network and its capability of coping with the social and economic development of Hong Kong. We must at the same time upgrade the competitiveness of the railway corporations, so that they can be turned into world-class railway corporations, converge with the rapidly developing railway networks in the Mainland and expand into the vast international market.

The synergies brought about by the rail merger will result in room for downward fare adjustments and bring benefits to our long-term railway development.

In 2004, the Government announced that the two railway corporations would be invited to hold discussions on a proposed merger. In order to ensure that the public can share the fruit of a merger, we drew up the following five parameters for the relevant discussions in response to public expectations:

1. the adoption of a more objective and transparent fare adjustment mechanism (FAM);
2. abolition of the second boarding charge and review of the fare structure with the objective of reducing fares;
3. early resolution of interchange arrangements for new rail projects under planning, especially the Shatin to Central Link (SCL);
4. ensuring job security for front-line staff at the time of merger; and
5. provision of seamless interchange arrangements in the long run.

Following lengthy and thorough discussions, the Government announced on 11 April 2006 that it had reached agreement with the MTR Corporation

Limited (MTRCL) on the terms and structure for merging the two railway corporations, and signed a non-binding Memorandum of Understanding (MoU). The merger package proposed at that time could already comply with the five parameters set down by the Government.

During our consideration of which form of merger to adopt, our prime concern was that while the merger must bring actual benefits to society as a whole, we must at the same time balance the interests of all sides. On the basis of the aforesaid consideration, both the Government and the railway corporations have agreed that it is most appropriate to effect the proposed merger by way of a service concession agreement (SCA). The merger package is therefore based on such an agreement. Under the SCA, the MTRCL will be granted a service concession by the KCRC to operate the existing KCR lines and new railway lines and other transport-related businesses of the KCRC. The MTRCL will retain its listing status and the post-merger franchise will be expanded to include provision of KCRC services. The Chinese name of the MTRCL will be changed to "香港鐵路有限公司" to tie in with the integration of railway networks in Hong Kong.

During the term of the SCA (concession period), the post-merger corporation (MergeCo), that is, "香港鐵路有限公司", shall operate two railway networks as an integrated whole. MergeCo would be responsible for the works and costs relating to the maintenance, improvements and replacement of the railway systems. Under the SCA, the KCRC shall retain its ownership of the KCR system and financial liabilities. Upon the expiry of the concession, MergeCo would be required to return an operating KCR system to the KCRC that meets the prevailing operating standards. This is similar to the mode of operation of the Cross-Harbour Tunnel in Hung Hom.

Regarding financial arrangements, apart from receiving an upfront payment of \$4.25 billion from the MTRCL, the KCRC will also receive fixed annual payments of \$750 million. Besides, the KCRC is entitled to an annual share of the actual revenue generated from the KCR system based on a pre-agreed set of sharing ratios. Such an arrangement of revenue sharing can ensure that while members of the public who own the KCRC can thus receive better returns from the actual revenue increases of the KCR system, MergeCo can also be encouraged to work harder to improve the operation of the KCR system.

Regarding properties, the MTRCL would purchase the property development rights over eight superstructure development sites of the KCRC and other related property management business as an integral part of the proposed merger. We note that individual members of the Bills Committee are very concerned about the pricing of property package. To a certain extent, such concern is caused by misunderstanding. I shall try to offer an explanation here. The Government's position is that the MTRCL's pricing must be based on market terms. The Government has in fact commissioned a professional valuation consultant to conduct an independent valuation. We must reiterate that the pricing under the property package is both fair and reasonable. Based on a valuation methodology commonly adopted by the market, the independent professional valuation consultant has confirmed that the pricing is both fair and reasonable.

As a matter of fact, the valuation methodology is also supported by the Hong Kong Institute of Surveyors. It is worth noting that the pricing is only the "entrance fee" which the MTRCL must pay in order to acquire the development rights over the properties concerned. This means the price of \$7.79 billion, which many Members mentioned just now. After doing some computations based on this figure, Mr Andrew CHENG has pointed out that the price is \$400 per sq ft. But this is just for acquiring the property rights. In the future, the MTRCL must still spend huge sums of capital on paying land premiums (commonly called "regrant premiums) and the costs of construction and other development projects, such as interests, before it can complete all these projects. We note that analysts from reputable investment banks and securities companies have pointed out in their reports that the MTRCL's pricing of the property package is fair.

With a view to allaying members' anxiety over the pricing under the property package, the Financial Services and the Treasury Bureau and we have been maintaining close co-operation with the Bills Committee, providing it with an abundance of information covering the residential floor areas, total construction areas and land premiums of the eight development projects. In order to convince members that the valuation was conducted on a fair and reasonable basis, the Secretary for Financial Services and the Treasury went so far as to disclose a considerable amount of commercially sensitive information at the Bills Committee's closed-door meeting on 24 November 2006. At the meeting, the Secretary for Financial Services and the Treasury explained very clearly that since any leakage of the information concerned would impact on the

sale of flats under the development projects and would even affect the operation of the entire property market, absolute confidentiality must be maintained. We believe that the information provided at the meeting would be helpful to the Bills Committee in examining the property package. The most important point is that the pricing has been confirmed as fair and reasonable by a professional valuation consultant in its assessment.

The part of the merger package that arouses the greatest public concern is naturally the issue of fare levels. The rail merger can achieve synergies and create room for fare reduction. Many Members argued just now that even without any merger, it would still be possible to reduce fares. Such an argument is not valid because without any synergies, it will be very difficult to reduce basic fares. On Day One of the merger, fare reduction can be implemented, benefiting 2.8 million passenger trips. The second boarding charge ranging from \$1 to \$7 for passengers switching between the MTR and KCR will be abolished. There will be a further global fare reduction of \$0.20 for all Octopus card users paying full fares. For all journeys charging \$12 or more, there would be a further reduction to achieve a minimum of a 10% reduction for all these journeys, benefiting roughly 340 000 passenger trips a day. For all journeys charging between \$8.50 and \$11.90, there would be a further reduction to achieve a minimum of a 5% reduction for all these journeys, benefiting roughly 1.16 million passenger trips a day. All these are substantial and long-term fare reductions, enabling members of the public to save \$600 million a year. Besides, MergeCo will also provide a concessionary fare of \$2 per trip in the first year after the rail merger for senior citizens travelling on the railway network on Sundays and public holidays.

(THE PRESIDENT resumed the Chair)

Fare reductions aside, through the negotiations on a rail merger, the Government has succeeded in securing from the MTRCL an undertaking that it will not increase its fares within the two years following the signing of the MoU. Besides, according to the gentleman's agreement signed between the Government and the two railway corporations in February 2004, when it announced its action of inviting them to commence negotiations of a rail merger, there will be no fare increases during the period of merger negotiations. In other words, the railway corporations have already frozen their fares for three years because of the rail merger. During the scrutiny of the Bill, I noted that

Members and the public were very concerned about the effective period of fare reduction. After several rounds of discussion between the Government and the MTRCL, the MTRCL finally offered to extend the effective period of its commitment not to increase fares from April 2008 to June 2009. In other words, the two railway corporations will freeze their fares for totally five years because of the merger. After the completion of the entire legislative process in July this year, we will be able to fulfil this undertaking.

Another issue of great public concern, one which is connected with fares, is the FAM. At present, both the MTRCL and the KCRC have fare autonomy, and they set their fares in accordance with prudent commercial principles, having regard to market conditions, competition from other transport modes and their respective financial conditions. When the economy was in poor shape, the public and Legislative Council Members repeatedly requested the two railway corporations not only to offer fare concessions but also to introduce actual fare reduction. Under the system of fare autonomy, although the two railway corporations did offer some fare concessions to relieve people's hardship, they have been unable to actually reduce their fares. The rail merger provides us with a good opportunity to replace the existing fare autonomy of the two railway corporations by the FAM, under which both fare increases and reductions are possible. Under the present proposal, fare adjustments following the rail merger will be determined according to a formula that allows for both fare increases and reductions. The formula is linked to changes in the Consumer Price Index, the Wage Index (Transport) and the Productivity Factor. Both indices are published data, so they are objective and verifiable. In this way, it will be possible to ensure that future fare adjustments can really reflect the prevailing economic conditions and people's affordability.

I also note that members are extremely concerned about the flexibility for MergeCo to deviate from the overall fare adjustment rate under the FAM and adjust individual fares within the permitted range. I wish to emphasize that when exercising such flexibility, MergeCo must cap the overall fare adjustment rate at the overall fare adjustment rate derived from the FAM formula, and it is not permitted to obtain any additional financial benefits. There is already a very clear safeguard on this under the FAM. As a matter of fact, it is not feasible to require MergeCo to adjust all individual fares at a uniform rate. We naturally understand that there are very strong views on this among members. Following many rounds of negotiations with the MTRCL, we are now able to reduce the scope of flexibility granted to MergeCo for adjusting the rate of fare

increase/decrease for individual fares from the overall adjustment rate to \pm five percentage points.

When he spoke just now, Mr LAU Kong-wah mentioned some unexpected circumstances such as a sudden economic downturn. The present operation of the MTRCL has already taken this into account, and the same mode will continue to be adopted in the future. Mr WONG Kwok-hing expressed the hope that no individual areas would be singled out. It is believed that since computations under the whole package are based on the weighted average, it will be impossible to single out any individual areas. This is not to speak of the fact that there is competition from buses and other modes of public transport. They must therefore also consider the fares of other transport modes. For this reason, I do not think that it will be possible for them to do so.

Fares aside and when it comes to interchange arrangements, we are also of the view that the public can benefit directly from more convenient interchange arrangements. In the first year after the merger, MergeCo will remove the turnstiles separating the two railway systems at Nam Cheong, Kowloon Tong and Mei Foo Stations. Passengers will no longer have to pass through these turnstiles before interchanging. Besides, the two railway corporations have agreed to build an integrated interchange station for the proposed SCL as part of the merger package. Passengers of the future SCL will be able to switch to the MTR system on the platforms of the same interchange station, instead of having to exit one station and then walk to another.

After the rail merger, MergeCo must still comply with existing legislative requirements and maintain a proper and efficient service, so as to meet the service and safety standards set out in the IOA. After the merger, the Hong Kong Railway Inspectorate will retain the statutory powers to inspect the railways and investigate railway incidents and accidents, in order to ensure passenger safety.

At present, the performance standards we have set down for the two railway corporations are already very high, and the scope of assessment criteria is also very extensive. When compared with the major railway systems in other countries of the world, our railway systems are among the best in terms of operational performance. Naturally, we do hope that our railway systems can continue to perfect themselves. For this reason, we will take the opportunity presented by the rail merger to raise the performance standards in a number of areas. All this will be beneficial to the public.

When it comes to competition in the public transport sector, during the scrutiny process, quite a number of members wondered whether the rail merger would lead to market monopolization by MergeCo. I do not think that such a situation will ever arise. Some other members have pointed out that there is very little overlapping of the two railway corporations' existing networks and the competition they face does not actually come from each other but from other modes of public transport such as buses and minibuses. Consequently, MergeCo must still face fierce competition from other modes of public transport. It is our intention to maintain a diversified public transport system, which is why the situation will not change in any significant way in the future. What is more, MergeCo will be bound by a formula-based FAM that replaces fare autonomy and also by the Operating Agreement. As a result, there will be greater institutional protection for the public.

As we all know, staff are the most valuable asset of the railway corporations. Therefore, any merger package must properly handle matters relating to their staff. All along, the two railway corporations have been doing quite a good job in this respect. I am very glad to note that they have already reached a consensus with staff organizations and the five unions on many staff issues related to the rail merger. Success in this respect must depend on the efforts of management to maintain continuous direct communications with the staff side and the persistent efforts of both sides to achieve the objective of "one corporation, one team".

The two railway corporations have conducted negotiations with five unions on 18 staff-related subjects connected with the rail merger. The outcomes have been satisfactory and both sides have already signed agreements to confirm all these outcomes. To both the management and staff sides, this is a very significant milestone in the merger process, something that lays a sound foundation for continued communication and co-operation between both sides in the future. We are especially grateful to Mr WONG Kwok-hing and Mr KWONG Chi-kin, the two Legislative Council Members who have been instrumental in the promotion of effective communication between the unions and the railway corporations and in the forging of the aforesaid consensus.

The SCL was also a hot topic during the Bills Committee's discussions on the Bill. We are equally concerned about the planning and construction of the SCL, and we have tried to answer members' questions as far as possible. In this connection, I note that in many cases, the news mentioned by Members in their speeches may not be entirely accurate. On the same topic, even Members belonging to the Civic Party have different views on and understanding of the

SCL. The SCL is no doubt one of the projects which the Railway Development Strategy 2000 strongly recommends to implement. And, it will definitely include a cross-harbour railway section. I heard Mr Alan LEONG said just now that he had learnt of a division of the project into the Sha Tin to Hung Hom Link and the SCL. But the Government has never thought of splitting the project in this way. That is only conjecture in the media. I hope he can understand that this is not the news released by the Government. What is more, Miss TAM Heung-man of the Civic Party also expressed her worry. She remarked that she did not support the construction of too many railway lines because she feared that the dominance of railway lines may hinder the development of other public transport modes, and this is in fact the case. In the course of railway development, we must also pay attention to the development of other public transport modes and consider whether they can maintain their unique functions. This is a factor that must be considered in all railway development projects.

In response to the merger negotiations between the KCRC and the MTRCL, the former has further reviewed the arrangements for interchanging from the SCL to the MTR system. Since quite a number of Members have already mentioned the details concerned, I shall make no repetition here. The two railway corporations have agreed to provide more convenient platform interchange arrangements at the stations concerned should the rail merger be implemented. We are right now considering the new package in conjunction with the KCRC's plan on the SCL. As a matter of fact, the SCL involves a number of technical issues, and we are actively conducting the required studies. For example, we are conducting technical studies on the compatibility between and convergence of the SCL and the ongoing Kai Tak Planning Review and Wan Chai Development Phase II Review. Within the six months following the legislative process on the rail merger, we will finalize the SCL project, including the timetable for implementation.

On the subject of transport services for persons with disabilities, during the scrutiny of the Bill, many members proposed various concessions for persons with disabilities patronizing railway services. Many of these proposals have been accepted by the railway corporations.

Regarding railway services and facilities for persons with disabilities, the Government's transport policy aims to provide barrier-free transport services to persons with disabilities. Having listened to members' advice during the scrutiny of the Bill, the MTRCL has agreed to install at least one bi-directional wide gate at each KCR Station after the merger for the convenience of

passengers with a disability. It has also agreed to amend the relevant clause of the IOA to stipulate that escalators and lifts shall be installed at appropriate locations for the efficient and effective transportation of passengers within stations. The MTRCL has so far spent over \$400 million on retrofitting new station facilities for the convenience of persons with disabilities, and the KCRC has also spent \$235 million in recent years. Members also expressed many views on various other facilities for persons with disabilities, and the MTRCL has also agreed that the enhancement of its communication with groups representing persons with disabilities will help it better understand the facilities required by persons with disabilities. For this reason, the MTRCL has agreed to add a new clause in the IOA to stipulate that MergeCo shall establish procedures to consult groups representing persons with disabilities, carry out annual reviews of its facilities provided for persons with disabilities, and report the review result to the relevant groups representing persons with disabilities. All this will help enhance the MTRCL's communication with groups representing persons with disabilities and provide facilities to persons with disabilities more effectively.

As for the employment of persons with disabilities, the two railway corporations have indicated that they will continue to discharge their corporate social responsibility as an equal opportunity employer. They have also accepted members' advice, agreeing to publish annually after the merger the number of persons with disabilities they employ and proactively conduct exchanges with groups representing persons with disabilities, so as to explore how they can provide job opportunities.

The Government has always attached importance to the integration of persons with disabilities into society. On the proposal of offering public transport fare concessions to persons with disabilities, the authorities have all long been holding discussions with Members and transport operators in the relevant Subcommittee. The Panel has written to the Chief Secretary for Administration, urging the Government to make use of public money and provide fare concessions to persons with disabilities in conjunction with public transport operators under the principle of shared responsibility. The Chief Secretary for Administration will promptly give a reply on the basis of government policies and principles. The authorities will also continue to hold discussions with the Subcommittee. I very much agree with Mrs Selina CHOW that all worthy aspirations beneficial to society must not be pursued only during the merger process; we must strive to pursue such aspirations both before and after the merger.

In regard to the North-west Railway, several Members and the two District Councils in Tuen Mun and Yuen Long have expressed concern about the services of the Light Rail and buses in the North-west Transit service area. In view of the persistent deficit of the Light Rail, it is necessary for us to review its role in the overall public transport system of the North-west Transit service area and also its service standards, including the need or otherwise for enlarging its fleet size, so as to make sure that it can better serve the needs of Tuen Mun and Yuen Long residents. For this reason, I very much agree to Mrs Selina CHOW's proposal on conducting a review. And, I will also require MergeCo to conduct a comprehensive and forward-looking review in conjunction with the Transport Department. Since MergeCo must draw on the operating experience of both sides before it can participate effectively in the review, I require that the review concerned must be completed before the end of March next year and put before the Legislative Council for detailed briefing and discussions in the second quarter of next year at the latest.

I can fully understand the concern of Tuen Mun and Yuen Long residents about Light Rail fares. Many political parties, Members and district-level organizations have approached me, requesting that instead of conducting a review immediately after the rail merger, the railway corporation should first retain the existing fare concessions of the North-west Railway for a period of time. Just now, Ms Miriam LAU and Mrs Selina CHOW asked for the extension of the fare concessions for two more years. I think their proposal is worth considering. For this reason, we did give repeated thoughts to the proposal and held many rounds of discussions with the railway corporation. Initially, it replied that it would review the relevant fare concessions from time to time, having regard to market conditions and passenger demand. In the end, after considering the unique circumstances in Tuen Mun and Yuen Long, the railway corporation has approached me, agreeing that should the rail merger be passed, the present fare concessions applicable to the Light Rail and the bus services of the North-west Railway, namely, the West Rail One-Month Pass and West Rail Discovery Pass, will remain unchanged in the coming two years, that is, until the end of June in 2009.

I have also heard a request from many Members, including Mr CHEUNG Hok-ming and Mr TAM Yiu-chung, for the retention of KCR West Rail Feeder Route K73P and the special services of LRT 761P. I understand that these two routes were introduced by the KCRC early this year to assist local residents in adapting to the reorganization of Light Rail routes. In response to Members' request, the MTRCL has replied that these two routes will remain unchanged until the end of next year.

Madam President, we have actively considered all the concerns raised by Members during the Bills Committee's deliberation and exerted our utmost to facilitate its work. Individual members may think that the timeframe for the scrutiny of the Bill is too tight. But as a matter of fact, since the Government announced the rail merger package in April last year, we have attended totally five meetings of the Panel on Transport and Panel on Financial Services of the Legislative Council. We have discussed all the details of the merger package with their members, replied to their questions in detail and submitted all the information required by the Legislative Council.

The rail merger package has actually received extensive discussions in the relevant panels, Bills Committee and society as a whole. I note that the public response to the rail merger package is positive. I believe that members all wish to see the early passage of the Bill, so that the rail merger can be effected as soon as possible.

The Bill seeks mainly to amend the Kowloon-Canton Railway Corporation Ordinance and the Mass Transit Railway Ordinance to provide the legal framework required by the rail merger. Its clauses are therefore technical in nature. If the Bill is passed by the Legislative Council, we will submit the required subsidiary legislation to it forthwith. The Legislative Council has set up the Subcommittee to Study the Draft Subsidiary Legislation Relating to the Rail Merger for the scrutiny of the draft amendments to the subsidiary legislation relating to the merger proposal. If the whole process can be completed before the summer recess of the Legislative Council commencing on 11 July, the MTRCL will immediately commence the work required by the legislation on public listing and convene a special shareholders' meeting in accordance with established procedures. Subject to the endorsement of the merger proposal, the two railway corporations will be able to make final preparations for the rail merger. It is believed that all these procedures can be completed within the several months following the conclusion of the entire legislative process. I hope that the work can be completed as quickly as possible, so that the public can enjoy fare reduction at the soonest possible time.

Lastly, I wish to take this opportunity to commend the staff of the two railway corporations for remaining so dutiful and continuing to deliver safe and quality services throughout the negotiation period of the rail merger. They have also made huge efforts to contribute to the rail merger. I am sure that all of us will be able to see the results of their hard work.

Madam President, the rail merger will bring benefits to society as a whole and is generally supported by members of the public. The Bill aims to provide the legal framework required by the rail merger. In order to effect the merger as quickly as possible, I implore Members to support the Bill and the various amendments I am going to move at the Committee stage.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Rail Merger Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr

LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU, Mr Albert CHENG and Mr KWONG Chi-kin voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Ms Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Ronny TONG 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 53 Members present, 32 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): Rail Merger Bill.

(Several women yelled in the public gallery)

PRESIDENT (in Cantonese): The persons in the public gallery, please stop the hubbub.

(Several Security Assistants attempted to prevent the women from yelling, but they remained standing and continued to yell)

PRESIDENT (in Cantonese): Meeting suspended

7.22 pm

Meeting suspended.

7.25 pm

Council then resumed

PRESIDENT (in Cantonese): Honourable Members, since some people on the public gallery insisted on chanting their slogans just now and prevented the meeting from progressing smoothly, I had to suspend the meeting.

MR CHAN KAM-LAM (in Cantonese): President, a point of order.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam.

MR CHAN KAM-LAM (in Cantonese): President, I hope you can make a ruling. Can a Member of this Council tell his wife to make a hubbub in the public gallery of this Council and disturb the conduct of our meeting?

PRESIDENT (in Cantonese): I can make a ruling on this. In this modern society where men and women are equal, (*laughter*) I do not think a husband can tell his wife to do anything or forbid her to do anything. Likewise, a wife cannot forbid, direct or order her husband to do anything. In such circumstances, I think that everyone should be responsible for his or her actions and his or her relatives should not be held responsible. Moreover, I do not have any information at hand to prove that any one Member here has directed a member of the public in the public gallery to whom he is related. So I cannot rule that any Member can or cannot do so.

DR PHILIP WONG (in Cantonese): May I ask Mr CHAN Kam-lam to make a clarification as to who actually is that wife of a Member of this Council that he referred to just now? (*Laughter*)

PRESIDENT (in Cantonese): Dr Philip WONG, please sit down first. I do not think I will ask Mr CHAN Kam-lam to make such a clarification, for it does not have any direct relationship with the Rail Merger Bill under discussion.

DR YEUNG SUM (in Cantonese): Madam President, I protest against the frivolous remarks made by the two Members just now.

PRESIDENT (in Cantonese): The Rules of Procedure does not allow you to make such a protest. It follows that this protest is ruled out of order. Of course, you have freedom of speech but this shall apply only when I invite Members to speak.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council went into Committee.

RAIL MERGER BILL

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

CLERK (in Cantonese): Clauses 1, 4, 7, 13, 20, 24, 26, 27 and 29.

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

MR ANDREW CHENG (in Cantonese): Chairman, since I did not receive this script until very late today, I wish to ask whether clauses 1, 4, 7, and so on, also include the long title. Can it be discussed at this stage? This is about the long title and its interpretation.

CHAIRMAN (in Cantonese): Clauses 1, 4

MR ANDREW CHENG (in Cantonese): I am referring to clauses 1, 4, 7 and 13. Clause 3 amends the long title, and clause 1 is the short title, right? This should be the case.

CHAIRMAN (in Cantonese): Very well.

MR ANDREW CHENG (in Cantonese): I am sorry, Chairman. I am very sorry.

CHAIRMAN (in Cantonese): Just hold on a second. You want to test the Chairman, so the Chairman must study it carefully. Please be seated first.

MR ANDREW CHENG (in Cantonese): No, no, I dare not test the Chairman.

CHAIRMAN (in Cantonese): Thank you so much for the test. I should

MR ANDREW CHENG (in Cantonese): Because the proceedings were not published until very late today.

CHAIRMAN (in Cantonese): I must talk about one thing here. Mr Andrew CHENG has repeatedly said that the script was not published until very late today. I wish to tell Members and put on record that Council Business Division 3 of the Legislative Council has in fact worked several very late nights. This time around, the deadline for Members to submit amendments was extended by one day, that is, 24 hours at the request of the House Committee. I of course accept the House Committee's request. But since there was simply not enough time to cope with so much work, I myself could not issue my rulings until 8.30 pm yesterday.

As a result, Council Business Division 3 must then continue to work, so that the script could be properly arranged for distribution to Members. Bills Committee members who have devoted so many hours to the scrutiny of the Bill should know the situation only too well. Now, let me see whether this will have any implications on the long title. But I hope Mr Andrew CHENG can first clarify to me whether there is now an amendment to the long title?

MR ANDREW CHENG (in Cantonese): Chairman, when I spoke for the first time during the resumption of Second Reading debate, I already expressed my gratitude to the Council Business Divisions and the Legal Adviser. I must add that the Chairman, in particular, has also had a very hard time. But the Chairman's remarks just now can aptly show that the timeframe for scrutinizing the Bill this time around has indeed been very tight. All parties have therefore been to very heavy pressure. Chairman, I have asked the above question just because I fear that I may say the wrong thing, that is, I fear that I am not supposed to talk about those clauses at this stage.

CHAIRMAN (in Cantonese): Fine.

MR ANDREW CHENG (in Cantonese): I do not mean to test the Chairman. Chairman, I hope you do not think that way.

CHAIRMAN (in Cantonese): Never mind. It is my pleasure to be tested by you.

MR ANDREW CHENG (in Cantonese): No, no. (*Laughter*) Sometimes, I honestly want to test you, but I certainly did not mean to do so just now. I simply fear that I am not supposed to discuss those clauses at this stage.

I have looked at clauses 1, 4 and 7 of the Bill. Clause 1 is the short title. Why am I so concerned about this question? The reason is that some individual Members cannot propose their amendments because the long title is about the regulation of fares. I therefore hope that there can be time for me to express my views and have them recorded in Hansard. But I do not know At the

very beginning, I thought that the Secretary would speak first because as you know, Chairman, according to the Rules of Procedure, I am supposed to give an overall reply after listening to the Secretary. This is what I mean. However, in that case, after the Secretary has finished speaking

CHAIRMAN (in Cantonese): I see your point. Please sit down and let me explain the whole thing to you, will you? Actually, regarding clauses 1, 4 and 7, clause 1 is about the short title. Clause 4 is about the amendment to the short title. As for clause 7, it is about the extension of franchise and not part of the long title. No amendment has been proposed to this part because no one had any objection to these clauses during the Bills Committee's scrutiny.

In regard to your intention of speaking on the long title, you should actually wait until we discuss clause 3. Another point is that when Members speak, I can often allow them great leeway in terms of content. As for railway fares, which you have just referred to, many Members already mentioned them during the Second Reading debate. Some Members even devoted their entire speeches to the subject.

Therefore, I do not think that you need to speak at this stage. Even if you mention the long title when you speak later, I will not stop you either. However, if you speak entirely on the long title and your remarks are not related to the amendments, I am obligated to remind you. Mr Andrew CHENG, I believe you do not want to speak entirely on the long title, do you?

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2, Heading of Division 1 in Part 2, clauses 3, 6, 9 to 12, 14, 15, 17, 18, 19, 22, 23, 25 and 28.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Chairman, I move that the clauses and Heading read out just now be amended as set out in the paper circularized to Members. All the amendments are supported by the Bills Committee. I hope that Members can support the amendments moved by me. Thank you, Chairman.

Proposed amendments

Clause 2 (see Annex I)

Heading of Division 1 in Part 2 (see Annex I)

Clause 3 (see Annex I)

Clause 6 (see Annex I)

Clause 9 (see Annex I)

Clause 10 (see Annex I)

Clause 11 (see Annex I)

Clause 12 (see Annex I)

Clause 14 (see Annex I)

Clause 15 (see Annex I)

Clause 17 (see Annex I)

Clause 18 (see Annex I)

Clause 19 (see Annex I)

Clause 22 (see Annex I)

Clause 23 (see Annex I)

Clause 25 (see Annex I)

Clause 28 (see Annex I)

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

MR ANDREW CHENG (in Cantonese): Chairman, this part is about the long title. Concerning the amendment, I must of course admit that the long title is not very complicated, and as remarked by the Chairman just now, some of the related points were already mentioned by us during the Second Reading debate. But why do I still want to put it on record? Because the long title of the Bill, especially the part that concerns the subject on which we want to move amendments to the Bill, contains a provision that makes it impossible for several Members to move any amendments regarding the regulation of fares.

During the scrutiny process of the Bills Committee, as far as I can remember, members were of the view that our Rules of Procedure was largely responsible for the different interpretations on whether the long title could be amended and whether the long title was part of the legislation. Internally, therefore, we started to wonder whether we should make our Rules of Procedure not so rigid on the handling of Blue Bills, so as to enable Members to move the amendments they deem necessary.

Chairman, it is because I think According to the long title, one of the purposes of the Bill is to provide for the regulation (other than in relation to any fare payable for using any railway service or bus service operated by the MTR Corporation Limited) of the MTR. This means that the Bill seeks to regulate the railway corporation, but the regulation of fares is not included. Consequently, owing to the exclusion of fare regulation, it is impossible to move many amendments, such as the provision of fare concessions to persons with disabilities proposed by Dr Fernando CHEUNG and discussed by us just now. The reason is that such proposed amendments are related to fares.

However, we have actually discussed the issue, trying to ascertain whether all should just be regarded as fare concessions, not fare regulation.

Unfortunately, however, the wording of the long title makes things very difficult, and the Government chooses to adopt a very narrow interpretation. For this reason, the Chairman ruled that down through the stage of Third Reading, Members shall not move any Committee stage amendments (CSAs) on the provision of fare concessions to persons with disabilities, which is both highly controversial but deemed necessary by all political parties and groupings. I think this is a very great pity. And, I also think that the Government's attitude towards Blue Bills is not conducive to promoting the relationship between the executive and the legislature. I have just heard from the news that while in Beijing, the Chief Executive made it a point to say that we should all discard our confrontational attitude for the sake of improving the relationship between the executive and the legislature and developing a democratic political system.

Chairman, although I did not remain in the Chamber all the time to listen to the speeches of all Members, I still listened to them while I was in the room. During the Second Reading debate, there was some sort of antipathy among those Members who spoke. But despite all the arguments among them, the various political parties all want to put forward CSAs with the objective of doing good to Hong Kong. It is indeed a great pity that the wording of the long title imposes such a constraint on us.

When the Secretary spoke in the resumed Second Reading debate, she raised several points concerning the extension of the existing fare concessions offered by the West Rail, and she also mentioned the Liberal Party and the DAB several times. We agree that they have their jobs to do, but I also hope that

CHAIRMAN (in Cantonese): Mr Andrew CHENG, I must interrupt you. It seems that you are giving a Second Reading reply.

MR ANDREW CHENG (in Cantonese): Chairman, please give me a bit more time because my only purpose is to express my view at this stage, so that the Official Record of Proceedings and the Committee on Rules of Procedure may

CHAIRMAN (in Cantonese): A point of order?

MS MIRIAM LAU (in Cantonese): Chairman, I wish to seek your ruling. Mr Andrew CHENG has spoken for five minutes, but how are all his remarks related to the group of clauses under examination?

CHAIRMAN (in Cantonese): First of all, I must say that my instruction was not very correct. Just now, I told Mr Andrew CHENG that he could speak during the discussions on clause 3. But having studied clause 3 closely, I now know that the long title to be amended is not actually the long title of the Blue Bill. Rather it should be the long title of the Mass Transit Railway Ordinance.

However, since I am the one who made the first mistake, I should give Mr Andrew CHENG the opportunity to speak. I must thank Ms Miriam LAU for raising this question. Mr Andrew CHENG, I now call upon you to continue with your speech. But you are reminded to speak as concisely as possible, because Ms Miriam LAU's query is justified. Your remarks are irrelevant to the clauses under discussion indeed. If you can find any relevance, you may continue to speak.

MR ANDREW CHENG (in Cantonese): Chairman, I shall not spend too much time on speaking again. I understand that the long title mentioned just now is actually the long title of the Blue Bill. We already discussed clauses 2, 3, 6, 9, 12, 14, 15 and 17 in the Bills Committee. One example is the long title of the Mass Transit Railway Ordinance. All those long titles, of course, also mention such issues as the rights and safety of railway development.

Since a Member has expressed the view that my remarks just now were not relevant to the present amendment, I shall not waste any more of Members' time. However, I wish to put it on record here, in the hope that there can be fewer restrictions in the long titles of Blue Bills in the future, so that we Members can speak freely on all issues related to the legislation concerned.

Thank you, Chairman.

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

DR FERNANDO CHEUNG (in Cantonese): I very much agree with Mr Andrew CHENG's remarks just now because I also find it most regrettable that the constraint imposed by the long title

MS MIRIAM LAU (in Cantonese): A point of order. Dr Fernando CHEUNG has made reference to Mr Andrew CHENG's remarks. But Mr Andrew CHENG's remarks were entirely about the long title of the Rail Merger Bill and irrelevant to the amendments to the group of clauses now under discussion.

CHAIRMAN (in Cantonese): Please come back to the amendments to the group of clauses now under discussion.

DR FERNANDO CHEUNG (in Cantonese): Yes. Chairman, since you allowed Mr Andrew CHENG to speak on the long title just now

CHAIRMAN (in Cantonese): I already explained that I did not make myself clear enough and gave an incorrect instruction to Mr Andrew CHENG. I already made all this very clear just now. Mistakes must be admitted. Do not ever think filibustering

DR FERNANDO CHEUNG (in Cantonese): No, Chairman, I just want to follow up

CHAIRMAN (in Cantonese): I shall not allow any more of it.

DR FERNANDO CHEUNG (in Cantonese): I only want to follow up the constraint imposed by the long title. I shall speak on that again at a suitable time.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, I now ask the Secretary for the Environment, Transport and Works whether she wishes to speak again.

(The Secretary for the Environment, Transport and Works shook her head, indicating that she did not need to speak again)

CHAIRMAN (in Cantonese): You do not need to speak again?

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2, Heading of Division 1 in Part 2, clauses 3, 6, 9 to 12, 14, 15, 17, 18, 19, 22, 23, 25 and 28 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 5.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Chairman, I move that clause 5 be amended as set out in the paper circularized to Members. The amendment is technical in nature and has been scrutinized by the Bills Committee. I hope that Members can support the amendment moved by me. Thank you, Chairman.

Proposed amendment

Clause 5 (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 amendment moved by the Secretary for the Environment, Transport and Works 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.

MR ANDREW CHENG (in Cantonese): Chairman, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(5) of the Rules of Procedure be suspended in order that the Committee may consider new clauses 10A and 21F, new heading before new clause 15A and new clause 15A together with clause 5.

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

Council then resumed

PRESIDENT (in Cantonese): Mr Andrew CHENG, you have my consent.

MR ANDREW CHENG (in Cantonese): President, I move that Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider new clauses 10A and 21F, new heading before new clause 15A and new clause 15A together with clause 5.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider new clauses 10A and 21F, new heading before new clause 15A and new clause 15A together with clause 5.

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

(Members raised their hands)

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

(No hands raised)

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

Council went into Committee

Committee Stage

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

CLERK (in Cantonese): New clause 10A Section added

New clause 21F Schedule 8 added.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has given notice to move an amendment to add the definition of "scheduled occurrence" to clause 5 and addition of new clauses 10A and 21F to the Bill.

CHAIRMAN (in Cantonese): Committee now proceeds to a joint debate. I shall call upon Mr Andrew CHENG to speak and move the Second Reading of new clauses 10A and 21F.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I move that new clauses 10A and 21F be read the Second time.

Madam Chairman, my amendment seeks to add new clause 10A to the Bill, so as to add a Railway Penalty Point System immediately after section 14 of the Mass Transit Railway Ordinance. To begin with, let me briefly explain the contents of my proposal.

In various debates over the past few years, Members already expressed their views on a penalty point system, but all these debates were on motions with

no legislative effect. I hope that my proposed amendment to the Mass Transit Railway Ordinance today can succeed in making a penalty point system part of the Ordinance, so that some objective criteria can be adopted to reflect all railway incidents and delays connected with the future MTR Corporation Limited (MTRCL) which comprises the existing two railway corporations, thus convincing the public that our supervisory authorities (both the Environment, Transport and Works Bureau and the Transport Department) are a "tiger with teeth" instead of a "toothless tiger".

New section 14A and Schedule 8 which I propose to add in my proposed amendment is about the operation of the Railway Penalty Point System and the occurrences for which the MTRCL shall incur penalty points.

First of all, I wish to explain that under my proposal, the MTRCL shall incur penalty points for some scheduled occurrences. Such scheduled occurrences are actually very simple, that is, whenever there are any service disruptions or delays, the same criteria under the current eight-minute notification mechanism will apply. The reason, Madam Chairman, is that as Members all know, any railway incident or delay lasting more than eight minutes must be reported to the Transport Department and the mass media.

Concerning the scheduled occurrences proposed by me, the threshold of points deduction is not eight minutes, but two minutes more, that is, 10 minutes. For service disruption or delay ranging from 10 to 20 minutes, the number of penalty points as proposed in the Schedule is one. For service disruption or delay between 21 minutes and 30 minutes, the number of points to be deducted is two. For service disruption or delay ranging from 31 to 40 minutes, three penalty points will be incurred. Four points will be deducted for any service disruption or delay between 41 minutes and 50 minutes. And, for any service disruption or delay lasting more than 50 minutes, five penalty points will be incurred.

Actually, penalty point systems are very common in Hong Kong, and motorists are well accustomed to such a culture and systems. If a motorist incurs 15 penalty points within two years, that is, if a motorist incurs a total of 15 penalty points within two years from the first registration of such points, his or her licence will be suspended. The Railway Penalty Point System proposed by me is also a 15-point system. But the accumulation period of penalty points shall be within three months from the first scheduled occurrence. If 15 penalty

points are incurred within this three-month period, there shall be a penalty as determined by the Chief Executive in Council.

Some wonder why it should be three months instead of two years. As Members are aware, if the accumulation period is two years, the system will even be harsher. The reason is that if the basis is the accumulation of 15 points within two years..... I can tell Members and I believe Members may remember very clearly..... The service disruption and delay of the two railway corporations in the past two years amounted to more than 3 000 minutes. And, these 3 000 or so minutes of service disruption and delay were just related to those cases which each lasted eight minutes or more.

In the past, many cases of service disruption and delay did bring unnecessary losses to society as a whole. All members of the public will suffer losses in terms of time. Any railway service disruption and delay may even cause many people to lose their jobs.

Typhoons may be cited to illustrate my point. The Hong Kong Observatory often says that every time when a Typhoon Signal No. 8 is hoisted, all Hong Kong people must stop going to work. Assuming that the per capita productivity is \$2 per minute, the several thousand minutes of time losses suffered by Hong Kong over the past three to four years should have incurred a social cost of more than \$100 million. This is a very heavy burden on society.

I can appreciate Members' concern that such a penalty point system may exert pressure on the railway corporation, especially its front-line staff. I hope they can understand that it is not my intention to exert any work pressure on any railway staff regardless of their rankings. But I also hope they can realize one point — it is not our wish to see the repeated appearance of "isolated incidents" and "reviews" in reports on the causes of railway incidents.

We in the Panel on Transport have really seen enough of all such reports over the past few years. Therefore, Madam Chairman, I wish to see an objective mechanism. As a matter of fact, the ordinances on the existing railway corporations already provide for penalties, so in case any serious incidents occur with them, the Chief Executive in Council may impose fines on them. However, no penalty of this kind has ever been imposed because the Secretary, the Commissioner, this legislature and even the public all have very different views on the definition of serious incidents.

I think the public have truly been very patient, given the various railway incidents over the past few years. The demand of Hong Kong people is actually very modest. I do not want to be mean either. My only hope is that the long-established concept, mechanism, principle and spirit of the traffic offence points system can also be applied to railway incidents.

A motorist must incur offence points for causing road safety problems. That being the case, since a railway incident and its resultant service delay will cause losses of time and money to hundreds and thousands of passengers, I see no reason for not holding the railway corporation responsible. But how should it be made responsible? Madam Chairman, we have thought about this over and over again. Our only hope is that some objective criteria can be set down in the law for the Chief Executive in Council to impose fines. But what should such objective criteria be? Since we have already adopted the 8-minute notification system, I hope that we can use eight minutes as the basis. Precisely, I should say eight minutes plus two minutes. I am not saying that eight minutes should be adopted as the threshold. I must reiterate this point, because I have allowed additional flexibility in two more minutes.

If there is really a 10-minute delay for each dispatch of every railway system, there are bound to be certain impacts. And, it must not be forgotten that I only propose to deduct one point for a delay lasting 10 to 20 minutes. In other words, there must be 15 cases of delay each lasting 10 to 20 minutes within three months before the railway corporation may be penalized. And, when it comes to penalties, I have also set down many conditions, so that the railway corporation will not have to face any penalties if an unnecessary railway incident has occurred through no fault of its own. For example, if it can be proved that the mechanical damage causing inevitable delay is the result of natural disasters, the railway corporation may use this as a defence.

Therefore, I hope Members can realize that the penalty point system I propose is quite lenient and not at all harsh. And, I even propose that for the first time, the fine imposed shall be no more than \$50,000. All the penalties, that is, not more than \$50,000 for the first time, not more than \$100,000 for the second time and not more than \$200,000 for each subsequent time, are indeed very low for a railway corporation with assets and profits amounting to several billion dollars.

Hence, I hope Members can understand one point. I have heard many arguments that such a penalty point system is not found anywhere else in the

world. But I must point out that in many respects, we have been in the forefront of railway development. Our approach of using superstructure property development as a means of subsidizing railway operation is the first of its kind in the world, and the standards of our railway systems are also quite high. Since we all hope that our railway systems can still maintain world standards while staying in the forefront, I hope Members can admit one thing — we have so far been unable to identify any objective criteria, so despite its penalty provisions, the legislation concerned is still reduced to a "toothless tiger" because we do not know how to define serious incidents. The public may think that a delay of one hour is already a serious incident. Actually, such delays have occurred many times before. But having published reports on these cases of delay, the top management of the railway corporations can still carry on business as usual. Not only this, the authorities have never exerted any pressure on them. Worse still, under the system of floating salaries, they can even continue to receive what the public consider as disproportionate rewards. The public do find this altogether baffling. Therefore, I hope that the amendment — actually, there are four clauses and one Schedule — can bring in a new Railway Penalty Point System. I hope Members can understand that it is not my intention to impose any penalties on train drivers. Rather, my intention is to impose penalties on the railway corporation.

During the resumed Second Reading debate on the Bill, Ms Miriam LAU advised that one should not think that imposition of penalties on the railway corporation and its management may not really exert any pressure on front-line staff. Madam Chairman, I agree. Actually, both the management and drivers of a responsible public transport organization must be dedicated and must avoid mistakes by all means. They should not make any unnecessary mistakes or mistakes which we think are avoidable. This is the public demand.

As part of the management, one should discharge and shoulder this responsibility. Ms Miriam LAU may of course speak later on. I believe that there will be fundamental differences between her views and mine. As I have repeatedly said, although my views on this are not the same as those of the Liberal Party and the DAB, I still hope that we can all conduct debates. I do not want others to look upon our arguments as partisan conflicts. I hope others will not think that Members belonging to different political parties are having a fight. I am just trying to find a way out, whereby we can handle the various railway incidents that may occur in the future. What is more, I am worried that the future MTRCL may not be subject to any supervision, and I am worried about

how it will handle the requests of the public. I wonder how we can be convinced that it will shoulder responsibility for any service disruption and incidents that may possibly happen. For these reasons, we must set down some penalties and objective criteria.

I have therefore listened very carefully to Members' views. I hope that the number of railway incidents can be minimized, whether or not my amendment is passed.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses 10A and 21F be read the Second time.

CHAIRMAN (in Cantonese): Member may now debate Mr Andrew CHENG's amendment to add the definition of "scheduled occurrence" to clause 5 and addition of new clauses 10A and 21F to the Bill jointly.

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

MS MIRIAM LAU (in Cantonese): Madam Chairman, Mr Andrew CHENG was right in saying that my views on this issue are very different from his. This is not actually the first time that Mr Andrew CHENG raises the issue of penalties. When handling the legislation on the listing of the Mass Transit Railway Corporation, Mr Andrew CHENG, or another Member belonging to the Democratic Party — I cannot remember clearly — also put forward the same request. His proposal was of course negated at that time.

The rationale behind Mr Andrew CHENG's proposed penalty point system is very consistent with his long-standing advocacy, because on many issues in the past, he always maintained that penalties would work, and that with penalties, all would be fine. He therefore thinks that if certain penalties are not heavy enough, they should be increased in severity, and it will always be better to impose heavier penalties. Therefore, he has been very consistent in this very respect. He has been holding the same position on many issues, and he has

been very persistent. It was several years ago that the MTR Corporation Limited was listed, but now, several years later, he still advocates the same idea.

During the Second Reading debate earlier, I already pointed out that I did not agree to such penalties. I am very glad that Mr Andrew CHENG at least agrees with me that although penalties are imposed on the railway corporation only, its front-line staff may still feel the pressure. I absolutely do not wish to see such a situation.

I suppose no one will want to see any service delay by the MTRCL or the railway corporation. Almost everyday, I travel on the MTR, and sometimes the KCR too. I will naturally be displeased if there is any service delay, even a delay of just several minutes, because I do not want to be held up when I am in a hurry. However, at the same time, I also realize that since a railway system is very complex, it will be totally unrealistic to expect "zero" delay. When many foreign friends of mine travel on our railway systems, they invariably think that our railway systems are a paradise. I tell them that there are also occasional delays on our railway systems, but they reply that in foreign countries, it is common to see the suspension of service for a whole day, or the service at a certain station.

I am not saying that Hong Kong should follow such bad examples and adopt the poor practices of foreign countries. We must strive for continuous improvement. The important thing is that we must look at how the railway corporation has been performing. The services of the MTRCL have actually been maintained at a very high standard. During the Second Reading debate, I mentioned the Railway Technology Strategy Centre of Imperial College London. The Centre has studied the railway systems all over the world, but it recognizes that railway services in Hong Kong are the best in terms of performance. Other kinds of literature, surveys and CoMET studies all confirm that our railway services are the best in terms of performance.

What standard have our railway systems attained in terms of adherence to scheduled frequency, passenger service and journey time predictability? Chairman, the rate is 99% or above. Therefore, our service performance is already very satisfactory. Are there any occasional delays? Yes, there are such delays because the railway system is a very complex one. Are such delays caused by the faults of management? Not necessarily, because in many cases, delays are caused by the inherent or hidden defects of train parts.

Besides, there are many other causes. I do not know whether Mr Andrew CHENG is a regular MTR commuter. Very often, if a passenger does not feel well during a journey on the MTR, the whole train must stop and it cannot depart until the incident is properly handled. Moreover, in some cases, the train driver must conduct an immediate inspection when he sees some irregular signals. This may also cause delay. The entire MTR system is a fail-safe design. As a result, even if there is just a slight irregularity, they must stop the whole system immediately to find out whether or not it is safe for trains to run again. Should penalties be imposed even for the occurrence of such delay? Should the management be penalized?

I must really reiterate one point here. Members may well think that it is not such a big deal to penalize the management. They may think that a director earns several hundred thousand dollars a month or several million dollars a year, or a director may himself be very rich, therefore it is no big deal to penalize him. That is not the point here. The point is that once there are penalties, instructions will certainly be given from top management. In this way, front-line staff will have to take certain actions.

I really do not want to make any repetition here, because if I mention the case of Japan now, it will be the third time that I do so. The whole incident was really very unfortunate, because they just wanted to make up for the delay. Because of the delay, such a serious accident occurred. All of us do not wish to see something like this. I am not saying that there are bound to be such incidents in Hong Kong. But ours is already such a fine railway system, one which can attain a rate of 99% in terms of performance. Should we still impose any penalties to make it still better?

Mr Andrew CHENG may of course wonder why we should not aim at 100% or 99.9%. The point is that we also hope that they can perform well. The MTRCL and the KCRC have already been offering various incentives to encourage their staff to strive for improvement. They have not just attained the rate of 99%. Sometimes, they can even attain a rate higher than that. We support the introduction of incentives. But we are not supposed to say, with a big stick in hand, "You used to score 99 marks. But this time around, you have scored only 98 marks, so we must give you a stroke. If you score just 98 marks again, we will give you one more of the same, even though your average score is still as high as 99 marks." Should Hong Kong adopt such a system?

Mr Andrew CHENG remarked just now that penalty point systems were not found in other countries and it was incorrect. Someone might have said that such systems were not found in other countries, or I might have said so due to misunderstanding. But having looked up the research files on the railway systems of other countries, I now know that penalty systems are indeed found in foreign countries. In Singapore, there is indeed a penalty point system, but an incentive system is also in place at the same time. Only a system marked by both penalties and incentives can be regarded as satisfactory. I must also point out why a system of penalty points and incentives is adopted in Singapore. The reason is that the satisfaction rating of its railway services — if the information I have is correct — is just 95%. In other words, penalties will be imposed if the rate drops below 95%. But if the rate rises to higher than 95%, rewards will be offered. I think such a system is worth our consideration.

However, I must reiterate once again that the satisfaction rating of Hong Kong's railway systems is already as high as 99%. It is of course possible for our railway systems to make further improvement, to attain the rate of 99.9%. But I think if we are still dissatisfied with the rate of 99% and still want to beat them up, so that they can attain the rate of 99.9%..... I do not think that it is desirable to impose such a system on the railway corporations. It is particularly worth noting that this may achieve the opposite result and do a disservice. I really do not know what will happen if front-line staff are subjected to this kind of pressure. We do not wish to see any impacts on staff, direct or indirect.

Whether a penalty point system should be established is a question we must consider. If the railway corporation's performance is really very poor, points must of course be deducted and penalties imposed for any further deterioration of performance, so that it can be made to perform better. But is it still necessary to do so with a railway system which is recognized by the whole world as a sound system? We must think twice before implementing such a system.

There are already many provisions in the integrated Operating Agreement to ensure that the railway corporation will provide proper and efficient railway services to the public. That being the case, I am convinced that it is not necessary for us to..... For the time being at least, it is not necessary to take any such action as long as good performance is maintained. But if service performance drops, we may need to consider the introduction of a penalty point system. Therefore, we will not always oppose a penalty point system. But at

this stage, in the present circumstances, we do not think that it is appropriate and necessary to introduce such a system.

Thank you, Madam Chairman.

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

MR LEE WING-TAT (in Cantonese): Chairman, basically, we cannot say that the existing railway services are very poor. But I still believe that it is only proper for an organization to be given both "the carrot and the stick". I can still remember that years ago, when I discussed bus services with the Secretary, I told her that I would write to the Government to complain about the bus companies' frequent non-adherence to schedule, or even the sudden cancellation of two dispatches on a certain day. Under the Public Bus Services Ordinance, the Government may impose a fine on bus companies for serious blunders. But the Government seldom imposes such a penalty. As a result, problems with bus services are common nowadays because there are no criteria to let managers know what the public will or will not accept. We certainly know that every year, bus companies will set down some benchmarks for punctuality. To begin with, the Democratic Party is not asking for "zero" delay. We do know that delays are inevitable. But we are concerned about whether delays are long, as long as 15 to 20 minutes. We are concerned about the frequency of delays. All these are our concerns. Second, are the penalties very heavy? I think that the organization concerned should shoulder responsibility, and if it fails to attain a certain standard, it should be penalized.

Ms Miriam LAU remarked just now that both incentives and penalties are found in foreign countries. Actually, I do not oppose the introduction of incentives. The board of directors may set down a certain benchmark. For example, it may set down a punctuality rate of 99% for this year and a maximum number of delays lasting 10 to 15 minutes. Once a benchmark is set, rewards can be offered if the benchmark is exceeded and penalties can be imposed if it cannot be attained. I will not oppose this approach.

But we must never say that once the punctuality rate of 99% is attained, no penalties should be imposed for any delays. Later on, I shall analyse what is meant by 99%. All is just a matter of computation. Therefore, I do not think

that this is a very harsh practice. Also, Ms Miriam LAU cited a number of reasons just now. The amendment put forward by the Democratic Party is not meant to penalize the railway corporation for all railway incidents. If there are reasonable grounds to explain the occurrence of delay, such as the case described by Ms Miriam LAU just now, where a passenger is struck by abdominal pain during the journey, it will be unreasonable to penalize the railway corporation because there is a genuine need to send the passenger to hospital. This is common sense, and such incidents will not entail any penalties.

However, if delays are caused by train deployment, by mechanical breakdowns with no reasonable explanation, and if such incidents also occur rather frequently and cause prolonged delay, I will not necessarily agree entirely that the management does not need to be held responsible. What I mean is that we have come across various kinds of service delay with different causes, some of which are rather serious, such as the underframe mounting equipment cracks connected with the KCRC or other train deployment problems. I can say that there were many such problems in the past few years. I am a member of the Panel on Transport and also a member of the railway subcommittee chaired by Ms Miriam LAU. As far as I can remember, there have been many such serious delays this year. In one case, due to reasons unknown, two oncoming trains were even found running on the same track following the breakdown of certain signals. In the end, of course, there was no serious accident, no head-on collision. Everybody just felt extremely lucky.

However, should we thus say that the management does not need to do anything more every time after conducting a review, offering an explanation and making some sort of changes? This way of doing things has in fact led to some problems. In the past few years, I attended many meetings on such incidents. I can remember that there were at least five to seven serious incidents. And, there were many minor incidents. For example, passengers were stranded on the MTR or the KCR for prolonged periods, for more than 10 minutes, due to service delay. But audio broadcasts could not enable passengers to know what was going on. In the end, people complained to radio stations. There were many such incidents. Therefore, I think that the establishment of a penalty point system will make the management handle these problems in a more careful and serious manner.

Therefore, the Democratic Party hopes that Members can consider this opinion. Thank you.

CHAIRMAN (in Cantonese): Does any other Member wish to speak? If not.....

MR ANDREW CHENG (in Cantonese): Chairman, can I speak again?

CHAIRMAN (in Cantonese): Yes, you may. But you are going to give your reply later. Do you wish to finish all you have to say now?

MR ANDREW CHENG (in Cantonese): I wish to say just a few words. I hope Ms Miriam can respond to my remarks. The reason is that after I have given my reply, I do not know how she..... I forgot to respond to several points raised by Ms LAU.

I agree with Honourable colleagues, and I have said many times, that the overall performance of the two railway corporations has given us quite a good impression. But why do I still propose a penalty point system? One reason is that it is an objective mechanism. The other reason is that there were actually many service disruptions and delays that caused inconvenience to the public. But the conclusions drawn in these published reports show that every time, the causes were different. We therefore have the impression that the railway corporations do not attach any importance to such incidents because the Government will not penalize them. They simply will not bother about any new incidents. But I do admit that railway services are normally very punctual.

But when it comes to performance requirements, that is, punctuality, there are actually two methods of computation, Madam Chairman. One method is of course the counting of punctual dispatches against late dispatches. Computation is on a quarterly, half-yearly or annual basis. There is a denominator, a base. The total number of dispatches is understandably great and the number of late dispatches small. When it comes to late dispatches, however, it must be noted that delays each lasting five minutes, 50 minutes or even one and a half hours are all counted as one single instance of delay. Therefore, can the so-called punctuality rate thus computed directly address the public concern about the punctuality and disruption of railway services?

I therefore hope that Ms Miriam LAU can respond to my question about the punctuality rate. She has repeatedly claimed that it is as high as 99%. Yes, to a certain extent, MTR and KCR services are punctual in most cases. But what I am talking about is an increasing public concern: the services of the two railway corporations are not punctual; not only this, there are frequent delays, long delays. How are we going to comment on this? Under the law, there are penalties for certain serious service delays. There are some relevant provisions. It is certainly not true to say that I, Andrew CHENG of the Democratic Party, have a special liking for penalizing others. Madam Chairman, this is simply not the case.

I hope Members belonging to the Liberal Party can understand that I have put forward my views and proposal because a mechanism for imposing penalties and fines is already in place. But this mechanism has never been activated due to the absence of any objective criteria. I now wish to introduce a set of objective benchmarks. And, I am not so harsh as to require "zero" delay. As I have pointed out, the threshold shall be a delay of 10 minutes. And, I have also included a number of defences.

After attending the 4 June candlelight vigil this year, Madam Chairman, I took the MTR. It so happened that a passenger fainted on board. I therefore started to count the time. Three minutes later, MTR services resumed normal. This reminds of Ms Miriam LAU's question of how we should regard the resultant delay in case a passenger faints on board and must be sent to hospital. Actually, the delay will not last longer than 10 minutes. Our railway systems are highly efficient in this respect, thanks to the effective efforts of front-line staff.

However, we are not talking about such incidents. We are discussing the problems with the management and other problems that go unnoticed in the process of maintenance and repairs, such as underframe equipment mounting cracks and the need for replacing all transformers struck by lightning. These are our concerns, Madam Chairman. I therefore totally agree that there must be both incentives and penalties. I must thank Ms Miriam LAU for this. Next time when I move amendments, I may consider the possibility of introducing incentives. But I do not know when I can do so because the franchise will last 50 years. I do not think that there can be any opportunities anyway.

I am at the same time very surprised as to why Ms Miriam LAU should cite the example of Japan. If Ms Miriam LAU wants to oppose any punctuality requirements on the ground that accidents may occur when front-line railway staff or train drivers try to rush along in order to avoid service delay, then I must tell her that even without a penalty point system, the existing legislation already contains provisions on imposing penalties for serious service delay and disruption. This should have exerted certain pressure on railway staff at all levels. We will face pressure in whatever we do. And, I can even say that without any pressure, we may well fail to do our jobs well. Such pressure may of course lead to undesirable consequences. If a railway staff member ignores all consequences and safety considerations and insists on operating dangerously for the sake of punctuality, his conduct will be most irresponsible.

Therefore, I think that the example cited by Ms Miriam LAU is inappropriate and strange. I hope she can respond to my remarks on the punctuality rate of 99%. She certainly understands what I mean because during my past discussions with her in the Panel on Transport and the railway subcommittee, I raised several times the point that this so-called punctuality rate could not reflect the lengths of delay. I therefore do not agree to her approach of using the punctuality rate as a means of showing that the two railway corporations have been performing very well. They have been performing well, but they cannot answer people's questions about service delays. How should we impose penalties? Regarding rewards, I totally agree that administrative measures can be adopted. If my amendment is passed, there will be administrative measures to offer rewards. The system of floating salaries can already enable them to reward themselves. We need not be worried that they will not do so. The remaining problem is how penalties should be imposed. It seems that in this regard, our Government and the supervisory authorities have never enforced the existing laws.

I notice that whenever I speak, Ms Miriam LAU will turn very impatient. She seems to think that I always like to talk about penalties. Sorry, Ms Miriam LAU, it is not true to say that I always like to talk about penalties. I have never said so. She seems to say that I am very persistent, that I must impose penalties, and that I think all will be fine with penalties. I have never said so.

I wish to reiterate that the Democratic Party's proposal is modelled on the existing driving offence points system. Besides, Madam Chairman, I have recently told the Secretary that even tyre replacement workers who fail to comply with the regulations in their work will incur offence points as required by

the Transport Department, and once they have incurred 15 points, they will be forbidden to continue with their job of tyre replacement. The Secretary may not be aware of this. I do not know whether she is aware of this because she is always very busy. Her eyes seem to tell me that she is not. I hope she can find this out.

Even tyre replacement workers have complained to me, "Even tyre replacement workers must incur offence points if they are caught by the police when doing their job under not quite so safe circumstances on highways." I of course agree that it is not safe to do so. I do not know whether these workers belong to the sector Ms Miriam LAU represents. I do not know whether they have approached her. But they have complained to me, saying that they must face very heavy penalties under the offence points system, even licence suspension. Madam Chairman, they may even lose their jobs as a result.

Under our proposal, the railway corporation will only incur one penalty point for each delay lasting 10 to 20 minutes, and if it incurs 15 points within three months, the fine for the first time will just be \$50,000. Afterwards, a new cycle of three months will begin. It is three months, not two years. All is so straightforward and simple. The requirement is not at all harsh. Even so, however, she still thinks that I must want to impose penalties. I do not think that penalties will necessarily make the railway corporation perform better. I just hope that they can make it perform better. But penalties may not necessarily lead to better performance. However, the main problem now is that there are no penalties and delays just continue to occur. I am talking about delays, not the punctuality rate of 99%.

I hope Members belonging to the Liberal Party can respond to my remarks. I have repeatedly pointed out that there is a huge discrepancy between this service benchmark and public expectation. This is the demand of the public. I believe that in this legislature, and in the law, there can be some objective criteria for compliance. And, it is not true to say that the Democratic Party wants to introduce any penalties. Penalties are already set down in the legislation concerned. Only that they have never been imposed. Thank you, Madam Chairman.

MRS SELINA CHOW (in Cantonese): Chairman, even before Mr Andrew CHENG spoke, we already decided not to support his amendment. Now, after he has spoken, we know that our decision is entirely correct.

Mr Andrew CHENG said just now that he did not want to talk about penalties only. But just now, he actually told us very clearly that there is no element of "reward" in his amendment. His amendment does not mention any fair approach of offering both rewards and penalties. He tried to refute our argument by saying that administrative measures could be adopted. But he said so only because we criticized his proposal for not mentioning both rewards and penalties, and that it only talked about the latter.

He also mentioned the recent delays caused by lightning and cracks. If we follow his argument, then front-line staff would be held responsible for emergencies and may be penalized at any time. Is this fair? Besides, the Democratic Party frequently criticizes the Liberal Party and its Legislative Council Members for not doing sufficient consultation on many issues, and for not listening to others' views. He even said that he had talked with some tyre replacement workers. But these workers are not front-line staff. They are not railway staff either. He was talking about tyre replacement workers. He has put forward all these penalties, especially concrete penalties regarding months, days and money, but how many front-line railway staff has he consulted? How many of them think that the penalties are entirely proper and appropriate? Under what situations did he listen to their views and what made him put forward such an amendment? Thank you, Chairman.

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

MS MIRIAM LAU (in Cantonese): Madam Chairman, Mr Andrew CHENG has spoken for a very long time and as a result, he became somewhat confused. He said that penalties might not be desirable and he did not know what good penalties would do. Even though he has elaborated further, the more he spoke, the more confused I am.

Madam Chairman, I wish to respond to several points. First of all, Mr Andrew CHENG asked why there were penalties for drivers. Mr Andrew CHENG has a lot of experience in this regard because he was given driving offence points and his driving licence was even suspended because of speeding, so he knows full well that penalties can be very useful in his case. However, there is a difference between the two, that is, the driver is behind the steering wheel and the vehicle is absolutely under his control. He knows what he is

doing. In this case, if a driver commits an offence, even though I myself am also a driver, I still agree that he has to be penalized. However, as I said just now, the railway is a very complex system and it may not necessarily be the case that someone has made a mistake. The problem may be a mechanical one, or as Mr Andrew CHENG said, the cause could just be a lightning strike and this is totally beyond control. In these circumstances, even though the driver is also behind the steering wheel operating the vehicle, these two situations are completely different. Therefore, you cannot say that since a driver has to be penalized, the railway corporation also has to be penalized. I think there is a difference between these two situations and Members must consider this thoroughly.

Mr Andrew CHENG was also fair in pointing out that the past service disruptions relating to the railway corporations were different in nature, that is, they were due to different causes. It is precisely because the causes are different — since railway systems are quite complex — that there are many things that may have escaped notice. Were the cause of service disruptions involving these railway corporations on each occasion identical, I think the management would have to bear responsibility. Why do they not ensure by all means that the same situation will not arise again after an occurrence? However, it is precisely because the system is so complex that the causes of the occurrences are so diverse. Mr Andrew CHENG cited an example, saying that a female passenger fainted, thus causing train service to be delayed by three minutes. However, it is possible that other incidents may cause delays in train service of more than three minutes, 10 minutes or 20 minutes and there is in fact no way of telling. One cannot say that because Mr Andrew CHENG witnessed a delay in train service of three minutes, so all delays will last only three minutes. I think this is far too subjective.

Mr Andrew CHENG is certainly subjective. Why do I say so? He said that there were already provisions in the legislation stipulating that penalties would be imposed on railway corporations for serious mistakes. This I also know and I have also mentioned that the Government can issue a verbal warning, a warning in writing, then impose a penalty. If a railway corporation did not do anything in full knowledge of an incident and as a result, delays occur again, it should then be punished. The Government will have to take the trouble of exercising the power vested by the law to impose penalties, however, it cannot impose penalties regardless of whether doing so is justified or not.

Now, Mr Andrew CHENG has proposed a schedule of occurrences — he said that it is objective, however, in my view, it is most subjective — and no matter what the reason is, one point will be incurred if train service is delayed for 10 to 20 minutes. He does not allow for any explanation. As long as train service is delayed, no matter how sound the reason is, a point will still be incurred. I wonder if this is being subjective or objective and whether this is being fair or unfair. I think that if penalties have to be imposed, it should be done in a fair manner. Since there are already penalties in the legislation to deal with negligence on the part of the railway corporations (including their management or front-line staff), I believe if delays in train service due to negligence really occurs, penalties should be imposed. Since this is already provided for in the legislation, there is no need to impose penalties by means of such an inflexible schedule.

Mr Andrew CHENG requested and, obviously me, to respond to the service performance of 99%. Mr Andrew CHENG was correct. It is calculated in the way spelt out by him in his analysis. However, I wish to point out that this method of calculation is adopted in respect of all railways worldwide. Therefore, I also mentioned just now that the service performance of 95% in Singapore is also calculated using this method. Does it mean that while other people use this method, we have to adopt another method involving the calculation of points and seconds before we can be considered to be doing the right thing? Since our standards have actually been recognized worldwide, if we want to compare our service performance with that of other railway systems in overseas countries, I think this method of calculation and the standards are acceptable.

Thank you, Madam Chairman.

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

(Mr Andrew CHENG raised his hand to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr Andrew CHENG, speaking for the third time.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I wish to clarify the point concerning imposing penalties even for being struck by lightning. I do

not mean that if lightning strikes, penalties have to be imposed irrespective of the circumstances. Members have probably read that report about the transformer and we hope that insofar as repairs and maintenance are concerned, and be it the incident involving lightning on that occasion or the incident involving fissures, the demand of the public is that a railway corporation must reach high standards in repairs and maintenance to ensure the safety of its trains and reduce service disruptions to a minimum.

I do not mean that if a train is struck by lightning, thus resulting in a service disruption of more than 10 minutes, points will be incurred right away. This is not what I mean. Ms Miriam LAU is also a lawyer and I hope she can look carefully at the provisions proposed by me, since in clause 10A which adds sections 14A, 14B, 14C and 14D mentioned by me just now, section 14B(1)(c) provides that the power to make regulations for the purposes of the Railway Penalty Point System is vested in the Commissioner for Transport and he is responsible for providing for the circumstances under which the MTRCL may be exempted from incurring points in respect of scheduled occurrence. In other words, there will also be some regulations to be made in accordance with section 14A and according to which we can discuss in what circumstances no points will be incurred.

Concerning consultation, I can only agree with half of the problem pointed out by Mrs CHOW. The reason I can only agree with half of it is that railway service is a public affair and railway is a mass carrier. Of course, to railway corporations, it may be necessary to consult front-line staff, however, front-line staff cannot speak on behalf of the corporations. We have consulted the KCRC and the MTRCL on the penalty point system a number of times in the meetings of the relevant panel and I have expressed my views a number of times. Naturally, the conclusions they reached were very similar to the beliefs of the Liberal Party and the Secretary. When it comes to public consultation, the general public, as users of railway service, should precisely be the target of consultation. I remember that the first opinion survey conducted on this issue shows that over 80% of the respondents believe that there should be objective criteria in imposing penalties, for example, a penalty point system and this is one of the bases that the public find acceptable.

Of course, you may say that even if consultations with the corporations and the public have been conducted, it is still necessary to deal with each provision cautiously at this stage. Mrs CHOW or Ms Miriam LAU have both

said that the offence points for driving and the penalty points for train service were different. However, I think both are the same and basically, they both involve road safety, and the impact is even greater. If a road user speeds, of course, his own life is at risk and doing so may also affect other road-users and result in a dozen casualties. However, the delays, disruptions and even more serious occurrences involving railways do not simply affect the lives of a dozen people, rather, thousands or tens of thousands of people may be affected and the casualties can be numerous. Certainly, to date, no such accident has happened in Hong Kong, however, Madam Chairman, the fire that broke out on a West Rail train was in fact a stroke of luck amidst the misfortune. We do not want to find that in this sort of delays or service disruptions, we always have to depend solely on lady luck to smile on us.

Ms Miriam LAU criticized Andrew CHENG a number of times as being subjective, believing that he only wants to impose penalties and she was very dissatisfied with Andrew CHENG. However, it does not matter and as I have said, we should be candid. I understand your viewpoints and I respect them, however, I cannot agree with them, just as you cannot approve of my being so subjective. My subjectivity is founded on the fact that although members of the public agree that the train service of the MTRCL or KCRC are largely punctual, they cannot accept, and they increasingly find it unacceptable that various occurrences have caused delays repeatedly. As regards how such occurrences can be reduced to a minimum, I have said that I hope some rules on imposing penalties can be laid down. Ms Miriam LAU said that I had said that "even if there are penalties, it may not necessarily be desirable". Ms Miriam LAU, this is not how I put it. What I said was, "Of course, penalties may not necessarily be able to solve all problems", so I said that they may not necessarily be desirable. I did not say that the penalties proposed by me may not be desirable, but you have described me as getting more and more confusingly the more I spoke. It does not matter if you do not support me, however, do not say that the more I speak, the more confusing I am, all right? We are all in quest of an underlying principle that can bring about progress in railway services by voicing our views and conducting a debate on the basis of mutual respect.

I think I will give a response only after the Secretary has spoken, however, ultimately, I still hope Honourable colleagues of the Liberal Party will understand that there should be both reward and punishment. Although I did not propose any provision to offer rewards in the legislation, you reminded me of the system in Singapore. I also have some idea of this and understand that this

is in fact an administrative measure, an administrative guideline. Therefore, be it an administrative guideline or a principle of law, the most important thing is to have a principle and an underlying belief. As regards rewards for the railway corporations, the public already have had a taste of this, so I believe if they do a good job, you do not have to worry about this. The internal rewards for the railway corporations will never be enough, however, it would be better if there is an objective penalty point system. I hope all of us will continue to express more views in this regard.

Although I know that it is unlikely my amendments will be passed, still, I hope that I can express my views under the principle of mutual respect, so that the Secretary can understand that this issue has been discussed many times in the Legislative Council. If, as Ms Miriam LAU said, this problem is really found to be worsening and it is necessary to introduce additional requirements on this in future, I believe it would be the right time that we made use of this mechanism to have discussions, so that the services can be more punctual and disruptions reduced.

Thank you, Madam Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If no other Member wishes to speak, I will now call on the Secretary for the Environment, Transport and Works to speak.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The penalty point system proposed by Mr Andrew CHENG has actually been discussed at various meetings of the Legislative Council. In the motion debates on enhancing the supervision of railway safety moved by Mr Andrew CHENG at the meetings of the Legislative Council on 17 November 2004 and, more recently, 7 March this year, the introduction of a penalty point system was discussed. Both motions were eventually negated. Besides, at the meetings of the Subcommittee on Matters Relating to Railways under the Panel on Transport held on 7 January and 4 March 2005, there were also

thorough discussions on such a system. As a matter of fact, there is not yet any consensus on whether or not a Railway Penalty Point System should be established. The Government has great reservations about such a system. The inclusion of such a system in the Bill is especially inadvisable because no thorough discussions have ever been held. This runs the risk of haste and the underlying rationale is not yet clearly ascertained. Nor do we know whether such a system can enhance the service quality of our railways and their safety or not. If we are to make any major changes, we must make reference to existing international standards or generally accepted benchmarks. Only then can we ascertain if there will be any increase in the safety responsibility borne by operating personnel. Clarity is lacking in all this.

In addition, as mentioned by several Members just now, the Government has already set down various legislative provisions on supervising railway safety, involving the issuing of verbal and written warnings and the imposition of fines. And, we shall continue to rigorously supervise the safety and reliability of railway services. Therefore, I call upon Members to vote against the amendment on establishing a penalty point system. Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr Andrew CHENG, do you wish to speak again?

MR ANDREW CHENG (in Cantonese): Madam Chairman, I wish to give a brief response concerning the international standard or the question of haste. At present, the so-called international standard is 99%. I believe what the Secretary meant just now is that at present, in fact, there is already a schedule specifying the standards of punctuality. Ms Miriam LAU also said she agreed with my method of calculation. According to this method of calculation, a delay of one minute is also regarded as one train service delivery and so is a delay of 10 minutes or 100 minutes. The international community also adopts this performance standard. If such a standard is adopted by the international community and since our standard has also been set so high, why is it still necessary to apply a different objective standard?

What I want to say is that the Secretary has not given any response concerning the several thousand minutes of service disruptions to the public in the past and the hundreds of millions of dollars in social cost. The approach of the Secretary in dealing with this issue is exactly the same as that in dealing with

the uneven traffic flow of the three tunnels and in failing to address the social cost arising from not dealing with the traffic congestion for so many years. This is called "trimming the toes to fit the shoes" and just like an ostrich, she buries her head in the sand and pays no heed. Moreover, she cited the so-called international standard in posturing as being highly justified in not making any further amendment.

The Secretary did not respond to the issue of the public and passengers losing their jobs or their time due to the delays in train service, delays for more than once or twice. Madam Chairman, the Secretary did not respond to this issue and only said that such was the international standard and that the MTRCL had done a good job in the past and so had the KCRC, then she said that I was hasty in proposing this mechanism. However, several years have passed and had the Secretary really wanted to do something, she should have tried to understand why such a mechanism exists in Singapore and why she can also do the same. Even if this will not work or there is no precedent internationally, had the Government really wanted to do this, it would have had enough time to carry out a consultation in the past few years. Each time I raised this matter, the Secretary would say that it was too hasty and no normal study had been conducted. Frankly speaking, we should propose and the Secretary disposes. Of course, if the Government does not want to do anything, the result would be just like the electronic road pricing system. Efforts have been made on it for over a decade and some \$100 million to \$200 million has been spent, but no conclusion has been reached to date. Therefore, if the Government does not want to do anything, it can simply say so to me instead of saying that this is too hasty. In fact, this is not in the least hasty. I have talked about this for several years but the Secretary has given no response whatsoever on the difference between the so-called international standard (that is, the standard of over 90%) and the duration of occurrences.

Come July, the Secretary may no longer be responsible for duties relating to transport, however, throughout these years, the Secretary really has not responded to the public's views on railway service disruptions. Every time, she would only say that they were isolated incidents, that she would accept the relevant reports, that she hoped the two railway corporations could make improvements, and that was all. Therefore, I hope the Secretary will understand that the public hope that the Government, as the supervisory body, can reach higher standards and adopt objective principles. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Before I put to you the question on Mr Andrew CHENG's motion, I wish to remind Members that if his motion is agreed, he may move his amendment to add the definition of "scheduled occurrence" to clause 5. If his motion is negatived, he may not move the relevant amendment.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That new clauses 10A and 21F be read the Second time. 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 CHAN Kam-lam rose to claim a division.

CHAIRMAN (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for three minutes, after which the division will start.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the motion.

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 Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Prof Patrick LAU voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat and Mr LEUNG Kwok-hung voted for the motion.

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 LI Kwok-ying and Mr CHEUNG Hok-ming voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 23 were present, six were in favour of the motion and 17 against it; while among the Members returned by geographical constituencies through direct elections, 22 were present, 12 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

MS MIRIAM LAU (in Cantonese): Chairman, I move that in the event of further divisions being claimed in respect of the remaining clauses of the Rail Merger Bill or any amendments thereto, this Council 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.

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the remaining clauses of the Rail Merger Bill or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): As Mr Andrew CHENG's motion on Second Reading of new clauses 10A and 21F has been negatived, he may not move his amendment to add the definition of "scheduled occurrence" to clause 5, which is inconsistent with the decision already taken.

As it is now nearly 9 pm, I wish to tell Members that I will adjourn the meeting at about ten o'clock and resume tomorrow afternoon.

CLERK (in Cantonese): New heading before Division 4A — Addition
new clause 15A of new Part

New clause15A

Part VIIA added.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has given notice to move an amendment to add the definitions of "Committee" and "Fund" to clause 5 and addition of new heading before new clause 15A and new clause 15A to the Bill.

CHAIRMAN (in Cantonese): Committee now proceeds to a joint debate. I shall call upon Mr Andrew CHENG to speak and move the Second Reading of new heading before new clause 15A and new clause 15A.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I move that new heading before new clause 15A and new clause 15A be read the Second time.

Madam Chairman, this is the amendment concerning a Railway Development Fund (Fund) proposed by me. The concept of this Fund in fact has its roots in a fare stabilization fund, however, we cannot adopt the concept of a fare stabilization fund because the long title of the Blue Bill states that any matter relating to fare monitoring and regulation cannot be raised. For this reason, since it is not possible to propose a fare stabilization fund..... the present concept is an even broader one because the Fund can serve to stabilize railway development and it will also be possible to meet the requirements of railway services, such as safety and efficiency as well as system requirements. It can even relieve the pressure arising from fares that users may have to bear. Under the concept of a fund, in times of economic downturn or when the railway corporation is under pressure to increase fares, this Fund can serve to provide relief to passengers and spare them the woes of fare increases.

Therefore, we have proposed several concepts relating to the Fund in clause 15A and in fact, they are founded on the principles underlying the existing legislation relating to the Western Harbour Crossing (WHC) and the Tai Lam Tunnel (TLT). The Fund takes the form of an Operating Agreement and it will be founded on the interests and other income derived from the moneys of the Fund paid into it by the MTRCL. What resource will be used to establish the Fund? The main source will be 3% of the profits from property development set aside by the railway corporation each year, which will form the basis of the Fund.

I believe Members will all agree that at present, the mode of railway development in Hong Kong is to use property development to subsidize railway

management. Properties are in fact land resources and all members of the public should be able to benefit from such. However, on behalf of the people, the Government seeks to maximize the return on these precious resources. We believe that the profits derived from the property developments carried out above railway stations should be used to some extent on railway development and to serve as a reasonable counterbalance to the pressure on fares. Therefore, the 3% set aside from the net profit derived from property development, property investment and property management is in fact a very moderate figure.

To take the years 2005 and 2006 as an example, the profit of the MTRCL derived from property development, property investment and property management alone stood at \$7.45 billion and \$7.75 billion respectively. In other words, calculated on the basis of 3%, \$223 million and \$235 million will be available. Members must bear in mind that the franchise will last 50 years and of course, we do not anticipate a profit of over \$7 billion every year, but sometimes, it may also exceed \$7 billion. On average, during the franchise tenure of five decades, if property development is carried out steadily and assuming that the annual net profit is \$5 billion, about \$100 million will be paid into the Fund each year and in five decades, the Fund will snowball to between \$5 billion and \$8 billion. Madam Chairman, this is a very substantial sum.

When we face..... we often say that the MTRCL is a miser because it even deducts 10 cents per trip from our Octopus cards to recoup the cost of retrofitting platform screen doors. We have the feeling that we are just being preyed on freely and this is beyond dispute. When we demanded the installation of platform screen doors, the MTRCL said that it needed money to do so and since money was needed, so it wielded the knife at passengers. The public have no choice and since they also like to use the Octopus card, so an additional 10 cents are deducted each time.

It is entirely possible to use this Fund on railway development and services and there will no longer be any need to implore the railway corporation to install platform screen doors, build toilets, spend \$100 million on cabling so that we can listen to radio programmes, and so on. We have wagged our tongues so much that it has become very sore but the MTRCL still has not consented. If such a Fund is in place, obviously, we will not need to implore it at all because everyone knows that the money is probably public money as it stems from the handsome profit that the MTRCL made in property development

above railway stations. In the past, we demanded that the MTRCL reduce its fares. Even though the accumulated deflation reached over 12%, it refused to reduce its fares by a single cent. In future, if this Fund is established, money can be allocated from it — it is a *de facto* fare stabilization fund — when the Government considers it necessary to use the Fund to stabilize fares, the public will think that apparently, it will not do for the corporation to raise its fares. For example, if it still wants to raise fares under the present economic situation, the public's opposition will be very strong, just as in the case of the WHC and the TLT.

However, Madam Chairman, I wish to explain the case of the WHC and the TLT. The amounts paid into their respective funds are not calculated according to a percentage, rather, it is calculated according to an estimate. If the traffic throughput is greater than the estimate in a particular year, a certain percentage of the additional profit will be credited to these funds. However, as we all know, unfortunately, the profits of the WHC have never exceeded the estimate because it is entirely impossible for its traffic throughput to exceed the estimate made by the Government back then.

A basis akin to that for the WHC and the TLT is the Railway Development Fund Management Committee. The management committees for the WHC and the TLT are chaired by the Secretary for Financial Services and the Treasury and the Railway Development Fund Management Committee (Management Committee) proposed by us will also be chaired by him. Its members will include the Secretary for the Environment, Transport and Works, the Commissioner for Transport, the Non-executive Chairman of the MTRCL and the Chief Executive Officer of the MTRCL, totaling five persons in all and a quorum of four is required.

I have specified the form of payments to the Fund and the purpose for which the moneys of the Fund are to be used in section 32G: "providing or improving facilities and services on the railway and on railway premises or enhancing the safety of the railways and of persons on the railway and on railway premises.". This is also the principle for handling and using the Fund and it can be discussed in the Management Committee from time to time. Consultants and experts can also be invited to such discussion. Therefore, I hope Honourable colleagues will understand that my amendment is intended to make the demand to establish a fare stabilization fund in a roundabout way.

Therefore, if, in the past..... I know that Honourable colleagues of various political parties actually do not find this idea of a fare stabilization fund objectionable. However, all of them are taking a wait-and-see attitude. What are they waiting to see? They are watching the attitude of the Secretary and the Government. Usually, if the Government thinks that something can go ahead, Honourable colleagues of political parties of all sizes usually will not think there is any problem. However, if it is us, that is, Members of the Democratic Party or the pan-democratic camp, who propose something and the Government also has reservation about it, then my amendment is doomed. I also know that the likelihood of it being passed is small, still, I hold some hope. Concerning the amendments that we moved in the past, I would still advocate my ideas unrelentingly before separate voting, in the hope that the Government would take on board this concept one day.

Furthermore, the Secretary has, in a meeting of the Bills Committee for this Bill — although she may think that the remark was made only at the spur of the moment — she really did say that a fare stabilization fund was worth consideration. Since it is worth consideration — of course, a fare stabilization fund is more restricted in nature — if the concepts behind a fare stabilization fund and a development fund can be combined and as long as the principle is to derive funds from the enormous profits made out of properties and spend them on railway service, safety and fare stabilization, I think this would be a benevolent measure of the Government. Hence, I also hope the Secretary can give a response later.

Although it appears that there are many provisions relating to the Fund, I want to stress again that this is not a new concept but an existing concept that has been applied to the operation of two tunnels. I also believe that many such funds for the purpose of environmental protection, an area with which the Secretary is most conversant, have been established and are in operation in many countries. In the face of economic uncertainties and when charges having a bearing on the public's livelihood are involved, it is positive for such funds to exert a stabilizing influence. In addition, this Fund will not require the use of any public money. We are not asking the Government to use revenue from taxes to establish it, rather, it is possible to do so by purely making use of the huge and enormous profit derived from property development.

Therefore, I hope that when Honourable colleagues voice their views, they can discuss this more. Of course, I hope that my amendment can be passed in

the separate voting. Concerning the views expressed by Honourable colleagues of the Liberal Party on this matter, I will listen to them carefully because given the present arrangement of voting, the votes of the Liberal Party are most crucial.

On this matter, although Ms Miriam LAU is the Chairman of the Bills Committee, it seems she has rarely expressed her views on this. As far as I understand it — because Mr LEE Wing-tat has been reminding me from time to time that he has had discussions with Ms Miriam LAU in a television programme — the Liberal Party does not find a fare stabilization fund very objectionable. However, will it give its support at this moment? This is of course another matter altogether.

However, even if the amendment cannot be passed today, I still hope that tomorrow — the Third Reading will definitely take place tomorrow — the Secretary can give a more positive response concerning the railway fare stabilization mechanism before the Third Reading tomorrow, as I have no idea how she will respond later, and that a basis will be laid down for studying the establishment of the fund. Although I understand that the Government has already put in place a good system and that is, the FAM that allows increases and reductions, this mechanism is not perfect because may be one day, when the thinking of the railway corporation and that of the public are conflicting, this Fund can serve as a buffer when the public face the pressure of fare increases. The establishment of this Fund will be a good beginning.

Therefore, I hope the Secretary can carry out a study. The Secretary also undertook to do so in the meeting of the Bills Committee last time. Of course, this study must not take too long. I still hope, even after the passage of the Bill, that the Panel on Transport and the Subcommittee on Matters Relating to Railways will continue to follow up this issue and that in future, there will be a fare stabilization fund or development fund to support railway development.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new heading before new clause 15A and new clause 15A be read the Second time.

CHAIRMAN (in Cantonese): Members may now debate Mr Andrew CHENG's amendment to add the definitions of "Committee" and "Fund" to clause 5 and addition of new heading before new clause 15A and new clause 15A to the Bill jointly.

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

MS MIRIAM LAU (in Cantonese): First, concerning our influence in separate voting, I thank Mr Andrew CHENG for his compliments on the Liberal Party. However, perhaps due to the fact that Mr Andrew CHENG sits in front of Members of the Coalition, he often forgets that they sit behind him. In fact, the people who matters the most in separate voting are the several Members of the Coalition, not a few Members of the Liberal Party. However, no matter what, I still thank Mr Andrew CHENG.

This fare stabilization fund (or what is called a development fund, which is in fact a fare stabilization fund) is of course desirable. Mr Andrew CHENG, if it were not, the Liberal Party would not strongly support this kind of funds when passing the Western Harbour Crossing Bill, which is of course now a law, and the Tai Lam Tunnel (Country Park Section) Ordinance. However, Mr Andrew CHENG has forgotten how the mechanisms of the two tunnels actually operate. He has forgotten about this, has taken the funds out of context and said that they were desirable. Of course, it was because they were desirable that we gave our support.

However, Members must not forget that in passing the Western Harbour Crossing Bill and the Bill relating to the Tai Lam Tunnel, an undertaking was made to the companies that they could receive certain internal rates of return and that was why..... just now, the minimum traffic throughput mentioned by Mr Andrew CHENG was not at all accurate either. In fact, according to the estimate in the legislation — I have brought along a copy of the Western Harbour Crossing Ordinance — in what circumstances would money be credited to the fund? It is according to the minimum estimated net revenue, that is, there are three flows, the first being the minimum estimated net revenue, the second being the higher estimated net revenue and the third being the maximum estimated net revenue. If the revenues of the tunnel companies lie somewhere between the minimum estimated net revenue and higher estimated net revenue, that means

money will be credited to the funds. In other words, they will be able to receive a percentage of the internal rates of return (IRR) as promised by the Government. If I remember it correctly, it should be 16.5% for one and 15% for the other.

I think at that time, many Honourable colleagues made many criticisms, in particular, the Democratic Party said that the rate was too high. If it receives that amount of money, it will be able to receive the IRR. In that case, in what circumstances is it necessary to pay money to the funds? It is when the revenues of these companies are higher than the higher estimated net revenues but have not exceeded the maximum estimated net revenue that 50% of the money has to be credited to the funds. In other words, it is only after the companies have received the full amounts they are entitled to according to the IRR that 50% of the excess amount has to be credited to the fund. When the maximum estimated net revenues have been exceeded, the entire excess amount will also be credited to the fund. That is to say, only the unexpected windfall will be credited to the fund and this is totally different from the present proposal.

As Mr Andrew CHENG said, since we were modelling on something desirable from the examples of the Western Harbour Crossing and the Tai Lam Tunnel, why do we not adopt it? Because the most important component has not been copied, namely, the source of the money and by that I mean how to make money so that it can be credited to the fund. Of course, Mr Andrew CHENG suggests in his amendment, that is, section 32F — if I remember correctly, it is section 32F — that it is only necessary to deduct 3% from the profit derived from properties and credit it to the Fund, since the corporation will make so much money from properties. However, I must point out that insofar as tunnel companies are concerned, it is only in the case of the Tai Lam Tunnel and the Western Harbour Crossing tunnel that toll stabilization funds have been established, whereas other tunnels such as the Tate's Cairn Tunnel and the Eastern Harbour Crossing do not have such funds because they have different mechanisms. Since their mechanisms are different, how can they have the resources for credit to some kind of funds? We cannot just talk about how good funds or fund committees are or how similar they are and what companies should do without talking about resources. Of course, there are suggestions that the resources can be derived from the profit made from properties, so I wish to explore the relationship between property development and railways together with Members.

As I pointed out in my speech on the resumption of Second Reading, in fact, some two to three decades ago, the Government made a policy decision concerning railway development in Hong Kong and that is, property development would support or subsidize railway development and operation. In my speech on the resumed Second Reading, I said that overseas countries greatly admired and wanted to model on such a mode very much. In November last year, the mayor of Beijing, Mr WANG Qishan, visited Hong Kong. He arrived at Hong Kong in the morning and in the afternoon, he had hardly recovered from the fatigue of his trip before he made a visit to the MTRCL, saying that he wanted to learn from and understand the mode of railway development cum property development. And the Shenzhen metro line 4 would also adopt the mode of railway development cum property development, pending approval by the State Council. How does such a mode of using property development to subsidize railway service work? A railway line will be developed by a railway corporation on its own but property development and the money made from properties are used as a subsidy, or the entire operation has to depend on property development, so that it becomes a so-called financially viable business.

Of course, land is a very precious resource to us, however, if railway service is not subsidized by properties in this way, can the fares in Hong Kong be kept at the present level or will they perhaps be a lot more expensive? Why do I say that they will be a lot more expensive? Because the figures tell us that if the revenue from property development is discounted, the railway corporation is losing money. Take the last five years as an example — and I have already pointed this out in my speech at the resumed Second Reading — the railway corporation has lost \$1.644 billion. If we only consider only railway operation but not property development, which listed company can suffer losses that run into billions of dollars for so many years? Of course, it is possible to operate at a loss and we can nationalize the whole system. The Government can nationalize and subsidize the railways, however, losses can continue to be incurred. However, I must of course also point out here that it may not be possible to maintain the operation of a national system either. Japan, where even the national railway system had to close down because of serious losses, is a case in point. Therefore, the question is how we want to operate our railways and what sort of system we want to give our railways to operate and what sort of system we want.

Of course, some Members now criticize the railway corporation, saying that since it has made so much money from property development and since these

properties are resources belonging to members of the public, why should the railway corporation be allowed to pocket all the money? I wish to analyse this problem with Members. Under the mode of using property development to subsidize railway operation, should the Government shoulder all the cost or should the public shoulder all the cost? I wish to provide some figures to Members. In fact, under such a mode, for many years, there was no need for the Government to bear the cost of railway operation or allocate precious resources to build any railway. For example, the construction cost of the Tseung Kwan O Line was \$18 billion and it was paid by the MTRCL. The Government did not have to pay one cent.

However, did the Government receive any income? It did. How much income did it receive? I have some figures here. Insofar as the MTR is concerned, the Government has invested \$32 billion so far and that was done more than two decades ago. However, how much money has the Government received so far? Under the policy of subsidizing railway services with properties, how much money has the Government received? The Government has received close to \$140 billion in revenue from the MTR, including \$75.8 billion in land premium. It is not true that it did not receive any revenue from land premium. The Government also received revenue from land premium. Of the total market value of the MTRCL, the Government owns \$82.7 billion of it. Although it is said that under such a system, the railway corporation can pocket all the revenue from properties, the Government also receives some revenue. The Government can receive \$3 billion in cash dividends as well as \$10.5 billion from the public sale of shares. All these sums are very important to the coffers and the contribution made by them was very significant.

In addition, under such a mode of development, railways can also develop constantly. In the absence of such a mode of operation, how do Members think the situation would be like? Without such a mode, there would not be any property development and if the railway corporation is required to develop railways, unless it is also..... I just do not know how to do the calculation, however, if the railway corporation cannot operate independently and cannot become so-called financially viable, the Government will have to make up for the funding gap and the Disneyland Resort Line (DRL) is an example. Since no property development was included in the construction of the DRL, the Government had to fork out \$2 billion. Since no property development was included, there was no alternative but to do so as the books could not be balanced, so it was necessary to fork out \$2 billion. There is also a similar

funding gap in respect of the South Island Line under discussion because similarly, no property development will be included. In fact, the Government has also tried to separate property development from railway services before to see if this is feasible. The KCRC did try this before and such a mode was adopted in the case of the West Rail. In the construction of the West Rail, the Government injected resources worth \$29 billion.

In the construction of the West Rail by the KCRC, the Government has the right of property development and the money from this will be used to repay the Government. How was the outcome? The outcome was that, by a stroke of misfortune, the property market was in a downturn, so it was not possible to carry out property development. In the end, this resulted in a mismatch between railway development and property development along the railway line. From the example of the West Rail, it is clearly evident that if a railway has been constructed but there is a lack of passengers and the flow of people, the money will be spent for nothing. Therefore, the West Rail is really a heavy burden for the KCRC and in my view, the West Rail is also a negative example of separating property development from railway development.

Concerning the toll stabilization funds, I have said that they are desirable and I have analysed it just now. In the case of the Western Harbour Crossing and the Tai Lam Tunnel, it was only right and a natural development to put in place toll stabilization funds. It was only inevitable that this was done. Since such an arrangement was not put in place for other tunnels, they do not have any stabilization fund. In the past, a development fund was also put in place for the Kowloon Motor Bus Company. Back in those years (that was many years ago), there were also profit control schemes for bus companies, for example, the profits made by bus companies could not exceed 16.5% or 13%. I cannot remember the percentages very clearly now, however, it was also the case that only the profits in excess of the amount that these companies could make would be credited to the development fund. Therefore, it was clear where the resources came from and everything was fair. Such was the practice back then.

The property developments I have been talking about have been used to subsidize railway services from day one. Now that it is suggested that 3% of the profit be set aside, even though this is not a lot of money, is this a fair and reasonable practice? Members have to discuss this. As Mr Andrew CHENG

is a lawyer, he should understand very well that if a contract has prescribed a mode and a system and there are many provisions therein, and if another contract has also prescribed a system and there are also many provisions therein, can I extract a desirable provision from contract A and put it in contract B regardless of whether this is justified, and unilaterally for that matter? Will it be compatible and will all the conditions support the newly added provision? This is the first question. To revise the contract high-handedly, even though this is done out of good intentions and for public good, and even though the amount levied is not great and is only as little as 3%, is in the final analysis a breach of the original contract. Insofar as the spirit of contract is concerned, is this a right thing to do?

Finally, I wish to add that it is possible to revise a contract provided that all the parties concerned agree to it. After discussion, if all the parties concerned consider the proposal reasonable and justified, one can simply change the system. Alternatively, if the Government makes a takeover after discussion, it can lower all the fares and even make everything free, can it not? It is necessary to have discussions and make changes in accordance with a process, instead of changing the rules of the game half way after entering into a contract or establishing a system. Furthermore, the intention is to change an existing system or contract by way of legislation. This is not about the question of right and wrong or good and bad, rather, we have to respect the rule of law and the spirit of contract. If one wants to do this sort of thing, we hope that discussion can be held according to the proper legal process before formal changes to the relevant contract are made and a new system is adopted. Thank you, Madam Chairman.

MR LEE WING-TAT (in Cantonese): Chairman, the more I listened, the more confused I was because Ms Miriam LAU presented a lot of views concerning properties and I felt as though the debate on my amendment had been advanced. This also explains why I whispered to Mr James TO because I said to him that it should not yet be time to discuss my amendment. Of course, she said later on that the survival of the MTRCL in fact mainly depended on property development. We have never denied this point. I also pointed out in the Bills Committee that concerning the present operation of the MTRCL, the MTRCL and the KCRC made very little profit from the fare revenue and sometimes, there were even losses. I did not deny this point.

However, the proposal put forward by Mr Andrew CHENG now does not prescribe the precondition of prohibiting property development and it is my amendment that has some bearing on this. Concerning fares..... although the name does not mention "fare" and is "Railway Development Fund", in fact, its aim is to..... because very often, when we talk with members of the public in the districts, they all said that unstable fares were a major cause of concern to them. In this regard, I believe that it is correct for the Government or political parties to bear this in mind. I believe Mrs CHOW is also aware that when discussing the legislation concerning rents, I also questioned whether the legislation should allow rents to fluctuate greatly or whether the fluctuation should be limited to a certain range. I always believe that the latter is preferable and this has always been my position. To some extent, this also applies to the fare stabilization fund, that is, it is necessary to let the public know that in future, the fluctuations in railway development and fares will all be confined to a predictable and small range. This will be useful.

If Members agree with this principle..... I remember that Mr LAU Kong-wah and I..... however, he is not present now. On that occasion, Mr Andrew CHENG was on leave and I was at any rate the deputy spokesman on transport policy of the Democratic Party, so I went to the Commercial Radio to discuss with the public the issue of railway development together with Ms Miriam LAU and Mr LAU Kong-wah. As far as I can remember.....if I remember it incorrectly, I hope Ms Miriam LAU can correct me. When we were talking about reducing the subsidy on fares by means of properties and the issue of fare stabilization, I remember that on that day, Ms Miriam LAU and Mr LAU Kong-wah did not voice any strong opposition to this principle. If Members wish to listen to this programme, they can go to the website of the Commercial Radio at any time tonight to listen to it.

What is the reason for this? The reason is the same, that is, if the fares fluctuate too greatly, it will affect the public and their livelihood. All right, if this principle is correct, next, we have to ask whether or not this practice is most unusual. This is not so. Such a practice is adopted in the case of various tunnels and in the past, it was adopted in the case of the Kowloon Motor Bus Company and the CLP Power Hong Kong Limited (CLP). Of course, I agree that in the case of the Kowloon Motor Bus Company and the CLP, a certain level had to be exceeded before this would be done because they were subject to the profit control scheme. Therefore, when their profits had exceeded a specified level, these companies had to credit the excess money to the relevant funds.

The CLP has also been criticized for many years because the money it put into the relevant fund is in fact the public's money, however, when the public demanded a reduction in electricity tariff, it refused to do so. In other words, according to this concept and principle, the Government in fact plays or played a part in the funds of the bus company, the CLP and the two tunnels. In other words, this proposal is not a wild dream, nor is this a novel concept in financial management and policy, still less a bizarre idea. When I was listening to the speech given by Ms Miriam LAU just now, the more I listened, the more angry I became because she said that perhaps the Government had to take over the railway corporation. I believe that sometimes, it is not necessary to voice such extreme views. Ms Miriam LAU must realize that if she voices such extreme views, other people will not subscribe to the views expressed by her in a debate.

Therefore, the question is whether the 3% will lead to a takeover of the railway corporation by the Government. Of course, no one will believe such a thing. If she argues in this way, she will surely lose because arguments must be founded. If it is said that in the future, all members of the public can ride the MTR and the KCR for free after the rail merger, of course, the railway corporation will suffer losses, however, no one has said such a thing at all and frankly speaking, even members of the public at the grass-roots level have not said so. Therefore, people will consider such excessively extreme views to be groundless, especially if the views are voiced by Members of the Liberal Party. I think her analysis is not founded on anything. In debates, it is necessary to seek the truth based on facts and if an argument is founded on principles, it is desirable. At present, examples of actual implementation are available to prove that doing so is feasible and the Government also accepts such examples of actual implementation. All right, the only question is whether this practice and this fund are desirable or not. I think we may as well have a debate on this.

Is doing so really desirable? Firstly, will such a course of action have great implications on the finance of the new railway corporation as a whole? All right, what we demand is 3% of all of the profit. Of course, I also know that the profit of the railways is mainly derived from property development. However, we have to remember that throughout the years, the public think that property development is in fact a hidden subsidy made by the Government to the railway corporations. No one will object to such a view. Just now, I heard Ms Miriam LAU talk about the market premium. I will never buy this point to the very day that I die. How possibly can this be..... in English, it can only be considered a negotiated premium at the most. Why do I say so? What is the difference between the two?

The representative of the real estate sector is also in this Chamber now. May I ask Members what property developers like the best? Mr SHEK, please correct me if I am wrong. In fact, what they like the most is to acquire agricultural land and then negotiate or haggle with the Lands Department over the premium. Of course, when they discuss the land premium, they will say that it is the market premium. However, property developers in fact know that the premiums are not market premiums. A lot of property developers prefer buying agricultural land first and wait for its value to increase in future. They like to maintain a land bank and then negotiate with the Lands Department over each piece of land. In addition, since prices in the property market fluctuate, if property developers bid for land when prices are low, land premiums will also be quite cheap.

Last year, that is, at the end of 2005 to early 2006..... since I have been in charge of matters relating to land and housing for such a long time, I always keep a keen interest in this sort of things. Members will all remember that in late 2005 or early 2006, property developers often complained publicly that the Lands Department was really mean in jacking up land premiums. In fact, the Lands Department did not jack them up. Why? The sites recently included in the Application List for auction are not offered at a discount of 50% or 40% but are really priced at market prices. Why are they really market prices? Because the prices may really make it impossible for property developers to make any profit. This is nothing strange and I believe it is really possible that they may really suffer losses.

Of course, some market participants who consider the prospect in Kowloon to be very bright are willing to take part in the auction even though the price has reached \$6,000 per sq ft. They will perhaps also take part in the auction if the price is \$4,000 or \$5,000 per sq ft. Together with the cost of constructing superstructures above stations, the price may reach \$8,000 per sq ft when the flats are put on sale. Is there any risk? There is. Therefore, Ms Miriam LAU said that that was market premium. Of course, that is no market premium at all. You can only say that that is a negotiated premium. If it were a market premium, we all know that the MTRCL.....

(Ms Miriam LAU requested clarification)

CHAIRMAN (in Cantonese): Mr LEE Wing-tat, do you wish to clarify?

MR LEE WING-TAT (in Cantonese): There is no need to clarify. If you say that you did not say so, that does not matter either. I will simply continue to talk about market premium.

If this is not market premium..... if you agree that the premiums paid by the MTRCL are not market premiums..... no matter if you say they are or not, you will have time to debate this with me. What I mean is, my view is that..... I do not want to quote your remarks here again. The land premiums in question are not market premiums but only negotiated premiums.

Put simply, the MTRCL is a developer. In fact, in the eyes of many fund managers in the stock market, the MTRCL is more of a property company than a railway corporation. We must know that at the most, railway operation can only recover the cost. Last year, the MTRCL made a profit of more than \$7 billion and an overwhelming proportion of it was derived from property transactions and the development of shopping malls. This developer called the MTRCL does not even have to carry out construction and development projects by itself. It only has to find a property developer as an intermediary to do the job. If something is profitable even when two companies co-operate, is the initial premium market premium? Even an ordinary primary school student would know how to do the calculation. In other words, even though it is said that the premiums are market premiums, the properties are still profitable when sold to members of the public after property developers have got their share of the gains. Obviously, the premium cannot be considered market premium.

All right, I believe my argument is correct and this is not market premium. That means our Government and the public are providing a kind of hidden subsidy in the form of land premiums. In fact, we all know this. If this is not so, do you mean the MTRCL can make money out of thin air? This is not possible. All right, if there is hidden subsidy, the money earned by the MTRCL actually does not entirely belong to it because we have already provided a sum of money to it in the form of discounted land premiums. Just now, I heard Ms Miriam LAU say..... if I say something wrong, she can clarify. However, I remember hearing her say that the Government did not give any money to it. It is true that the Government did not give any cash to it. I agree that no cash is given to it, however, often, it is not necessary to give it cash. If the Government wants to give other people favours, they are not always in cash. It can offer gold, waive the land premium and even give them priority in making purchases. In other words, in this world, money can take many different

forms. It is not always necessary to pay cash and options will also do. Therefore, whether cash is given is not important.

Since discounted land premiums are a kind of hidden monetary subsidy, the general public will ask, "Since we have paid this kind of hidden subsidy, why can we not have the right to enquire about how such subsidy is used?" Now, Mr Andrew CHENG has proposed 3%. All right, will this 3% cause the collapse of the overall finance of the MTRCL and problems, so that the Government will be forced to take over the two railways, as Ms Miriam LAU maintained? Of course, logically, the third scenario cannot hold water at all. The profit last year stood at more than \$7 billion and 3% amounts to \$210 million. Of course, this will cause the MTRCL to make some financial adjustments, however, it is obvious that there will not be any impact on its overall development because the great majority of the projects of the MTRCL do not require the use of all the funds within a year. We all know this.

Furthermore, often, the MTRCL would raise capital for the construction of railways through borrowing and the interest rates of its loans are very low. Why? Because the Government has 75% of the ownership of the MTRCL. We all know that it is impossible for the MTRCL to go bankrupt, that it is very difficult for it to go bankrupt because, as all overseas fund managers know, if the MTRCL winds up, this is tantamount to the Government winding up and this cannot possibly happen and this is very unlikely to happen. This being so, why are the bonds issued by the MTRCL always rated as A+ and even A++? This is not purely because the operation of the MTRCL is good. It cannot be denied that the operation of the MTRCL is good and it hardly ever loses money and rarely require large sums of subsidy from the Government, so this is one of the reasons. However, on another front, although the Government has not said so publicly, it has provided 100% of pledge or support to the MTRCL.

Therefore, Miriam LAU, I do not think that when the railway lines were constructed..... just now, she cited a railway line as an example but I have forgotten the name of the railway line — that railway line cost \$18 billion and it seems to be the Tseung Kwan O Line. Obviously, the MTRCL did not make available the \$18 billion from the annual profits from its operation. Only some of it came from this source and we all know that it raised the capital mainly through loans, whereas the interest rates on loans were some 3% to 4% or about 5%. I think that the interest rates for some of them are probably even less than 5% — I recall that they should be less than 5% because 5% is considered very

high for large syndicated loans. Who enables it to receive such treatment? This is wholly attributable to the support that the Government gives it. Therefore, from this principle and angle, it is necessary to stabilize the fare or carry out a lot of development. In terms of actual experience, many funds have been established and no major problem has ever been encountered, nor is there any difficulty in operation. I cannot see what impact the 3% will have on the operation of the MTRCL and it will not have any impact on its railway projects either.

All right, finally, Ms Miriam LAU may question why it has to be 3%. Is it really necessary to set it at 3%? Of course, this can be further debated. What percentage is suitable? This is an issue that can be debated. The rate can be 1%, it can also be 1.5% and we can even formulate a new benchmark, for example, the profit has to first reach \$6.8 billion, after which \$200 million will be set aside for every \$1 billion of profit. This is also possible. You can propose many benchmarks and we can discuss them further. However, you should not say that Mr Andrew CHENG's proposal lacks any basis. I think it has a sound base. In the meeting on that occasion, even the Secretary..... Andrew, that issue was in fact raised by me. I asked the Secretary if she would consider establishing a fare stabilization fund. The Secretary said that this proposal could be considered. However, I must also point out that she only said it could be considered and it does not mean she agreed to it — I am being fair here. What she meant was that if there was any measure that could enable us to deal with the issues relating to fares and various facilities such as screen doors more easily, she would explore it. I hope the authorities can continue to consider this issue with an open mind because I think that at present, the MTRCL is unwilling to carry out a lot of projects. As Andrew CHENG pointed out just now, even for basic facilities such as screen doors, the MTRCL has to charge passengers an additional 10 cents for each trip they make. In fact, is this necessary?

I also hope that on this issue, the DAB and the Liberal Party..... since they sounded so positive in the radio programme — that was my impression..... even though they do not really agree with this, since they sounded so positive, can we also have a debate on this and consider whether or not this is a desirable measure?

Thank you, Chairman.

CHAIRMAN (in Cantonese): Ms Miriam LAU, do you wish to clarify your earlier remarks?

MS MIRIAM LAU (in Cantonese): Yes, Chairman, my speech had been twisted, so I must make a clarification.

I would like to offer my apologies if Honourable colleagues have failed to understand my speech or recalled my words wrongly — sorry, perhaps I have not made myself clear enough. I have never said that I support a fare stabilization fund. In my opinion, before any discussion on it has ever been held, it is indeed very difficult to introduce such a concept into the present railway development of Hong Kong.

In the past, I kept highlighting the fact that, and I kept telling colleagues that railway development in Hong Kong had all along been subsidized by property development. And property development has really stabilized the fares of railways in Hong Kong. In fact, this is what has actually happened. If there were no subsidy from property development, our fares might not be able to stay at the present level, and fare increases might be introduced more frequently. These are possible scenarios. Therefore, if there have not been such hidden subsidies from property development, our fares would have become unstable. For this reason, Members should not twist my remarks to say that I support the fare stabilization fund. Of course, I also did not say that this is no good, but I do not wish to repeat my earlier remarks anymore.

On the other hand, some of my other views have also been twisted. He said that due to the 3%, I asked the Government to take over the railways, that is, to nationalize the railways. Mr LEE Wing-tat has once again failed to figure out what I had said. I could clearly recall what I had said. I said that the Government had signed contracts with the railway corporations over 20 years ago to the effect that property development would be used to finance the construction of railways. This is an issue of contract. Of course, contracts can be revised. If both the Government and the railway corporations agree that an alternative method could be employed to deal with the matter, then it is possible to revise the contracts. But the revision can be made only after the issue has been discussed and negotiated by all the parties concerned. And the Government may even make the revision to take over the railways, if it considers such course of action appropriate. This was precisely the point on which I

based my remark about the Government taking over the railways. I did not propose that the Government take over the railways because of this 3%. Mr LEE has completely twisted my words, and I absolutely did not mean that. Thank you, Chairman.

MISS TAM HEUNG-MAN (in Cantonese): Madam Chairman, I rise to speak in support of Mr Andrew CHENG's amendment.

On the issue of fares, both the Government and the two railway corporations have always insisted that there should be flexibility in the fare adjustment mechanism (FAM). The Government has eventually agreed to reduce the adjustment rate from the original 10% to 5% after Members' hard negotiation with it for months. However, we absolutely do not agree that the new railway corporation should enjoy this kind of privilege. The new corporation absolutely should not enjoy this 5% flexibility in adjusting fares because such flexibility is like a Damocles' sword — such that passengers have to pay higher fares at any time, and we in the Legislative Council do not have any supervisory authority over this.

Therefore, the proposal of establishing a Railway Development Fund as suggested in Mr Andrew CHENG's amendment is trying to adopt an alternative approach to stabilize the fares of railways, so as to alleviate the pressure of introducing fare increases, thereby benefiting the people. This proposal does deserve our support.

If Mr CHENG's proposal is endorsed, the new railway corporation will have to credit 3% of the profits from its property development and property investment to this development fund. The Fund shall be used for improving railway facilities and services, which is beneficial to both the passengers and the general public.

Madam Chairman, during the past year, the Government has maintained a rather firm stance on the issue of fares in the meetings of the Bills Committee; sometimes we can describe the stance as "not giving any concession at all". The 10% fare flexibility was deliberately set at such a high level. It was eventually lowered to 5% after some bargaining, and then the Government could claim to have accepted the opinions of Members and the people. In this way,

some Members alleged that they had succeeded in forcing the Government to make some concession. This was as trifling as some children's games. In our opinion, we can claim to have successfully forced the Government to make concession only if we can cancel this flexibility in the FAM altogether.

With regard to the Democratic Party's proposal of establishing a Railway Development Fund, I hope Honourable colleagues from different parties and groupings can support it because this is the last chance for us to fight for stabilization of fares on behalf of the people. If you cast your votes to negative it, then the present situation of having no control will further deteriorate in future. Of course, I know this amendment will end up like what Mr Andrew CHENG has described — "doomed". In normal circumstances, it will not be passed because there will not be sufficient votes. The Government has already secured enough votes.

What I want to say again is, regarding what Ms Miriam LAU has said just now — but she is not in the Chamber now — I can say I was baffled. I tried to understand what she had been saying by applying some accounting theories, but still I could not understand a bit of it. I had discussed it with a Member sitting next to me; as we looked at each other, both of us could not figure out what she meant. We really did not understand it at all. Therefore, Madam Chairman, I hope Ms Miriam LAU can explain her justifications and reasons clearly, so as to enable us to understand her points and the examples cited by her, thereby enabling us to understand her opinions properly. Thank you, Madam Chairman.

MS MIRIAM LAU (in Cantonese): Although I have not heard Miss TAM Heung-man's speech in full, I would like to clarify that what I had been presenting were points of law, not accounting viewpoints.

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

MR ABRAHAM SHEK (in Cantonese): Chairman, Ms Miriam LAU has just mentioned the five crucial votes from The Alliance. In this evening, our five crucial votes will be ready for disposal by the Liberal Party. *(Laughter)*

Chairman, what I would like to say is, regarding Mr Andrew CHENG's proposed Railway Development Fund for stabilizing the fares, I think this concept is very good. It is really very good. But unfortunately, it has come several years late. *(Laughter)* Why is it late by several years? When the MTRCL was first listed on the local stock exchange, I can remember that the Democratic Party had explicitly agreed with the concept that land should be used to subsidize railway development. At that time, I had yet to become a Member. But I witnessed that they had said specifically at that time to allow the MTRCL to reserve 20 000 additional flats in the present Dream City. At that time, that piece of land was allocated to the MTRCL at the very last moment. If the Democratic Party put forward the proposal at that time, it should stand a very good chance of success. But it is late by several years when it is proposed now. On the other hand, it is also too early by several years.

In dealing with the Rail Merger Bill which we are examining today, the Government has not granted any land to the MTRCL because it was the MTRCL that will make use of \$8 billion to acquire the development right from the KCRC, and this development right is for those eight pieces of land for development. Therefore, at present, the MTRCL will not be granted land by the Government anymore and then it will pay a premium like before. As such, Chairman, this has absolutely nothing to do with land grants. So, that is why I said that it is late by several years, and also it is too early by several years. In future, if the Government intends to grant land for railway development again, you may put forward this proposal then.

Chairman, we shall not support the proposal this time. Thank you, Chairman.

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

DR FERNANDO CHEUNG (in Cantonese): Mr Abraham SHEK has just mentioned the use of land to stabilize fares. In fact, since I joined the Bills Committee, we had been pursuing the issue of fare stabilization all the time, in the hope of identifying a mechanism of preventing the fares from rising too drastically, thus making it possible to maintain the fares within the people's affordability.

All along I have failed to understand how land can be used to stabilize fares. With regard to the determination of fares, first of all, how were the fares determined in the first place? And after the fares were determined, there must be an adjustment mechanism. The so many discussions held are actually all about an adjustment mechanism. But we have never discussed how the fares were determined Day One. If the initial fares were determined at a level that was too high, then, no matter how adjustments are made subsequently, they are still adjusted on a very high base. So how were the actual figures, be they high or low, arrived at? Regarding such fares, to what extent had they been subsidized by property development, thus maintaining them at a low level as the starting point, and then be subject to evaluation by different mechanisms when adjustments are made in future?

Of course, we support the amendment moved by Mr Andrew CHENG today. However, what we are supporting is, with regard to the adjustment rate, the establishment of a fund to make the fare increases not too substantial in future. It is only related to a layer of fare adjustment, instead of being related to the fare level determined at the very beginning. However, I think Mr Andrew CHENG is very clever in moving this amendment because he is using a circuitous method to stabilize the fares. It is because this Bill does not allow any amendment for the purpose of regulating the fares, and the functions of this Fund are not only confined to stabilizing the fares, but it will also be used to improve other areas of operation. I think this does deserve our commendation.

In fact, both the allegations of being too late and too early are invalid because no matter when the rail merger takes effect, profits will still be generated for sure. Now what we are proposing is just to credit some of the profit to a fund so as to improve its operation, including improvement to facilities for people with disabilities and the granting of some fare concession to socially disadvantaged groups. Of course, we have been looking forward to seeing that people with disabilities can enjoy some concessions and maintaining the provision of better concessions to the elderly. At the moment, students can of course make use of student tickets. But in terms of operation, it has become increasingly difficult for students to apply for student tickets. If a fund was established, in fact there must be ways of making some improvement to its operation. Now, many of the facilities mentioned by the MTRCL seem quite good, and I shall not go into the details at the moment. I shall only discuss them in greater detail when we move amendments that are related to the facilities.

Regarding the other functions of the Fund, it may even serve to help certain people with disabilities to look for employment. Although we have a lot of facilities now, if some of the employment venues are not so accessible, and thus makes people with disabilities cannot go and work there, this could be one of the functions that the Fund can serve in providing assistance. Therefore, we very much hope that Mr Andrew CHENG's concept of this Fund can be endorsed in this Council. The Fund can be useful in many ways, be it its own operation, fare stabilization, or even the fulfilling of social responsibility by the MTRCL by making use of the fund.

Thank you, Chairman.

CHAIRMAN (in Cantonese): Members, about an hour ago, I told you very optimistically that I planned to suspend the meeting at about ten o'clock today. But it is not the appropriate time for suspending the meeting now. I think, I shall, by all means, finish dealing with the amendment moved by Mr Andrew CHENG as well as clause 5 before I suspend the meeting. Therefore, we may have to spend one more hour or even longer, so please keep this up. *(Laughter)*

Does any other Member wish to speak?

MR LEUNG KWOK-HUNG (in Cantonese): One more hour to go before we call it a day, and I originally planned not to deliver any speech today. Actually, I planned to deliver my speech tomorrow, but since the Chairman said the meeting would go on for another hour, I have no alternative but to speak earlier than planned. I once thought of raising my hand to ask if I could save my speech for tomorrow because I know that Members are all very tired now, right?

In fact, very often the Government would use various methods to subsidize public utilities, and such a practice is very common among many public utilities companies. It is like after being granted a franchise, the operator may even be allowed to sell hamburgers as well. But, we all know that the railway case is rather paradoxical. I would like to ask you, "If a piece of land is not accessible by train, how can it become valuable? If someone acquires a piece of land for speculative purposes, but it is not accessible by train, who will buy it for building houses? Without roads, are we going to ask the people to get there by bicycle?"

Therefore, instead of praising the Government for having done exceptionally well in granting a piece of land to a railway operator to conduct property development business, and then allowed it to spend the proceeds on constructing railways, I would say it was just two-way. In fact, in the meantime of constructing a railway, the overall property prices of the relevant districts will surge. It is only due to the fact that properties along the railway lines are..... I have said many times that Hong Kong people all look for convenience, and in addition, our railway services are considered quite good, and the noise generated not too excessive. But for some places with excessive noises, the residents are leading a rather miserable life.

When I went on a sightseeing trip to Thailand, I could see that those who lived along the railway lines were the poor people. Although the Thai Government had actually forbidden the construction of houses there, they had secretly built their own houses there. I had once seen a small child crawling around on the ground. I very much worried that he might creep through the fence and the train could run over him.

Ms Miriam LAU said earlier that if proceeds from property development projects were not used as subsidy, she did not know what would happen. In terms of figures, that argument could be correct. But we must understand that, very often, the development of Hong Kong, that is, the property projects are developed along railway lines. So this will lead to an overall surge in the land premiums of the relevant districts, and thus enabling property developers to make a fortune.

Therefore, railway construction not only benefits Hong Kong people, but it also makes the land valuable, because railways make it possible for people to move to and live in certain areas. For example, since Tuen Mun is not accessible by railway, do you think that real estates in Tuen Mun can flourish? Of course not, right? Even for people involved in the speculation of properties, they would not make much money there because there are no prospects. Since Tuen Mun is a place not accessible by railway (the railway stops at Tsuen Wan), property prices do not go up substantially. Although there is a Light Rail connecting Tin Shui Wai and Yuen Long, which is less than effective, it is very hard to make money from speculating on properties in Tuen Mun. Therefore, instead of praising the Government for having done exceptionally well in having built the railways, one might as well say that the policy has provided some indirect financial subsidies to enable property developers to make a fortune.

We all need a place to live, do we? Everybody needs a place to live. In the Mainland, their requirement is to have premises built on a properly formed land with some basic utilities, whereas in Hong Kong, the requirement is the provision of a connecting road or a railway. In any case, roads have to be built. The building of railways actually aims at transporting people around in a speedy manner.

For example, if we live in Tuen Mun..... or maybe let me cite an example of a place where it is connected by a railway. For example, when people need to go to work in Central from Tsuen Wan, they can take the MTR. People are using the time they have thus saved to work for their employers, which actually has fostered the economic development of Hong Kong. Therefore, this is not an exceptionally good government policy at all. One must never say: A railway has been built to link up these places, so you should be thankful, should you not? For example, and this is very simple: If there is no MTR in Hong Kong, certainly people will find it very unpalatable, but could Hong Kong have developed its economy? Throughout this debate, it is as if we are saying: "You Hong Kong people, we have already built the railways for you and what more do you want? The fares are already very inexpensive." However, throughout the entire debate, we must never harbour this thought: That the Government has every right to subsidize the railways with the proceeds from property development, because it has given us a gift.

In fact, in any infrastructure development, it is first and foremost to make the people mobile, regardless of whether it is for their work or for their lives. Insofar as that mechanism is concerned, actually both Ms Miriam LAU and Mr Andrew CHENG have got it wrong, because we have to take into account reasonable profits. According to her, as far as building a tunnel is concerned, whether or not the method of "build, operate and transfer" is employed, the developers will have to bear the cost of the business, and therefore we need to give them some profits, such as giving an undertaking that they are allowed to have a profit of 16.5% upon completion of the project. Does the same apply to the MTR?

Ms Miriam LAU criticized Mr Andrew CHENG, but does the same apply to the MTR? Is the MTR like the tunnels, that it would be transferred to the Government after it has made enough money with the profits guaranteed to them each year? No, that is not the case. In the beginning, Hong Kong people built their first extension line by securing a loan from the Asian Development Bank.

Subsequently, we kept expanding the network by using public money. How do we calculate the average rate of return? Should the MTRCL be making a profit of 16.5%, 10% or whatever? In fact, this is not the way how it should be calculated, because the most important thing is that the MTRCL must plough back the profits into its operation, so that Hong Kong people can keep using the railways as the major means of transport. As such, the MTRCL must not be treated as an enterprise which aims at making profits.

The colonial government did not want to spend money on building the tunnels, so they identified some capitalists to take up the project and guaranteed their returns upon completion of the project. But does this apply to the MTR as well? No, that is not the case. According to Ms Miriam LAU, Mr Andrew CHENG cited a wrong example. In fact, it was wrong right from the very beginning. Why has our MTR become something like the alien in the movie — I wonder if Members have watched the movie "Alien"? It was something good to begin with, but all of a sudden, it turned into a blood-sucking, people-eating alien. I cannot help but ask this: Why is it necessary for our MTRCL to become a top-notch profit-making consortium?

I can point it out candidly, that Hong Kong people stand to gain nothing, except that the senior management of the corporation could get more bonuses, more money, and enjoy a special "social status" by telling people that they could manage the enterprise well. For a publicly-owned corporation funded by the Government, the profits it made are, in itself, meaningless, because the profits should not be used as capital to make even more profits. Instead, such profits should be used for supporting its operation.

Therefore, in this regard, it fits the Chinese saying, "the wallet is the slip, and the slip is the wallet"(荷包即兜肚，兜肚即荷包). It means that we do not need to worry too much even if the MTRCL does not perform very well in a certain year, for it has invested a lot of money to build something good. However, after the Government had sold part of its shares..... According to Ms Miriam LAU, the Government has received \$10.5 billion, as if it were an important harvest..... With the incorporation of this factor, people are now saying that as an enterprise, the MTRCL has to be profit-making, just in the same way as other private transport corporations or even non-private transport corporations (like the KCRC) do. What kind of logic is that? The Government has received this amount of \$10.5 billion, but I do not know how it would make use of this \$10.5 billion. Is it because the Government was

running out of money? That is not the case either. It just took the first step towards privatization.

After this trick was performed, people keep saying that since the MTRCL is an enterprise, one must not prevent the MTRCL from making profits. Furthermore, it is impossible to ask the MTRCL to provide efficient, environmentally-friendly and quality services while asking it to make a profit from the market price. Therefore, here comes pressure for fare increases. If we say that the MTRCL is not allowed to make that much profit, then we would be accused of knowing nothing about market economy. This is a logic that defies logic.

We have to ask, if we sold the MTRCL and the Light Rail all in one go to the capitalists, we could recoup a handsome amount of money. There is a value there, right? There is a value there. When we discuss this matter, we often fail to apply the following logic in our consideration: In fact, regardless of whether it is a private company or public company, all the money in its possession belongs to Hong Kong people.

Therefore, actually Mr Andrew CHENG has only made a very humble request, in the same way as many people are ready to settle for the second best when they cannot get the best. To begin with, it is most baffling that this Council is unable to monitor, on behalf of the public, a big enterprise which has a lot to do with transport and environmental protection. Regardless of whether the amendment can be passed today, President, I have to point out that the amendment only targets at some trivial matters. Unfortunately, just as we are witnessing this alien growing bigger and bigger, just as it is becoming a king of the aliens, a super-alien, it is simply giving us a cold shoulder.

Ms Miriam LAU said Hong Kong people would have to pay more if the operation of the MTR was not subsidized by the proceeds from property development. This is natural. However, nobody has ever argued from this viewpoint: Would it be feasible if a private company is asked to build a railway, and let the Government pay for it? Since this will promote the development of the property sector, the money will eventually flow back to the Treasury. However, nobody has ever put forward such an argument. We are trapped in our habitual thinking, always thinking that things will not work if they are not done in a certain way.

In fact, has anyone conducted some actuarial calculations to ascertain how much extra profit both the KCRC and the MTRCL have pocketed in using public funding? And in such profits, how much was provided by the Government as gifts? In fact, there should be none. I feel that if we use the premium..... If the land was sold, we could also get the money..... The crux of the problem is: Which party was responsible for constructing the railway? If it is the Government which was responsible for constructing the railway, it might sell the land after the relevant districts have been made prosperous by the railway. In this case, the Government could still reap the profit all the same. The Government could still get the money. Therefore, we cannot say that it is most logical and reasonable for the Government to provide land for launching railway development. It is not so. The present situation takes place simply because we have chosen this model.

As we take a retrospective look at the entire issue, people may ask, "Where could we get the capital for launching railway development?" At present, Ms Miriam LAU said property development is used to help the railway development. As such, we have to ask a very simple question: From such proceeds from property development, why can we not allocate part of it for fare reduction, or provision of other social welfare? I really do not understand why we cannot do that. Since we are now saying that our public enterprises do not aim at making profits, but at facilitating redevelopment, so I think, many people are now secretly condemning me as speaking nonsense.

In fact, the redevelopment targets of public utilities should be carefully planned by the Government, or a government-appointed public commission or a committee with public credibility. We have never done that. All along, we had left this to the two railway corporations which keep on launching development programmes without stopping. With regard to such issues as how much money these two corporations should retain; how much of the remainder should be set aside as the development fund and how much of it should not, and so on, we have never given them consideration.

In fact, the 3% mentioned by Mr Andrew CHENG is just a casual suggestion. To a certain extent..... For example, if we are going to develop an even more..... Very simple, All of a sudden, we might think of an "ingenious idea" — developing a magnetic levitation train that will travel from Hong Kong to Hunan direct. This will of course need capital. The Government may inject capital into it, or it may ask the MTRCL to make use of

part of its own reserve for the project. However, what kind of obstacle do we face now? I have repeatedly mentioned this obstacle: Since we started visualizing the merger of the KCRC and the MTRCL, we already had to purely base on the market development, that is, the average rate of return, in examining the case of the MTRCL.

In other words, in launching all kinds of redevelopment programmes, the Government may be requested to provide more land, and if the property market is suffering a downturn, the Government would be requested to inject capital into the project, right? With the injection of capital by the Government, we may even have to guarantee that the MTRCL can make the profits it considers appropriate. When investments were made by capitalists in the private sector, the Government had already revealed that it could have 16.5%. This is already very unfair.

Therefore, it is really a mystery as to how much money is required before it is considered adequate. It was not so in the past, but with the implementation of the merger, we now keep hearing people mention that we have to be responsible to the small shareholders; that we cannot be worse-off than the rate of return of other comparable enterprises or the overall interest rates or the overall rate of return. This is the reason why we oppose this merger.

MR JAMES TO (in Cantonese): Chairman, the gist of Ms Miriam LAU's earlier remark is: Since we have a contract with the MTRCL, and traditionally the concept or the approach is to use property projects to subsidize railway operations, and there has never been anything like a fund. She also says, since the agreement is already in existence, if we introduce some changes all of a sudden, it may constitute a breach of contract or even a violation of the rule of law.

I find such a statement most weird. Why? Because right now we are discussing a new piece of legislation which will confer on the MTRCL the operating right and development which were non-existent in the past. Therefore, we are discussing a new contract and a new structure or a new framework. Our entire society is acting on behalf of the people, through this imperfect Council and not completely democratic political system..... we cannot do anything about this because this is the reality..... in this Council under this legal framework to mandatorily implement this merger, to mandatorily assign

certain public assets such as the development right or land to the MTRCL. In fact, we are doing all these through a..... In fact, we are used to processing private bills, right? However, this is in fact a public issue. Through a new legal basis, a new contract and a new legal framework, we are conferring some additional things on the MTRCL to enable it to pursue new opportunities and possibilities.

For this reason, even if some Members make the requests for adding toilet facilities or establishing a fare stabilization fund, and so on, all these requests are nothing but part of the negotiation. We had not made any promises and then all of a sudden we go back on our earlier promises and force the MTRCL to provide certain things. No, that is not the case, OK? Even if the issue is examined from a most micro point of view, the situation is still the same. Some people may say: No, you cannot do that. Even though the KCRC's belongings were not originally owned by the MTRCL, but the MTRCL itself still possesses some land development rights and management rights which were originally conferred on it. So, in this case, why is it necessary to collect 3% in respect of these, which was not stipulated in the original contract?

Please bear in mind: If the MTRCL agrees to such arrangements, it will have to accept these terms because we are discussing a brand new contract. If legal terms are used to describe the situation, then we can say that the original contract has been revised and many — I am sorry — new concepts of negotiation have been incorporated into it. Therefore, I can only say that it can only make the decision of accepting it or otherwise. And if it does not accept it, then it may tell the Government: Sorry, on such terms, I am not going to accept it. Such a scenario could arise because the MTRCL can tell the Government that once section 32G, that is, Mr Andrew CHENG's suggestion, is passed, it would feel unhappy, and it would prefer not to implement the merger because it would not be able to carry on with its operation after 3% has been deducted. Eventually, the Government might have to withdraw the bill. As such, the MTRCL can carry on with its original projects without being deducted 3%, right? It is just as simple as that.

Therefore, the MTRCL can tell the Government at any time that it does not accept the terms. We have not forced it to accept them. Hence, please do not say that we revise its contract and take money away from its pocket. That is not true. We must clarify this point, OK? This is a point of law.

Besides, another point is also worth mentioning. In the entire system, none of the advertising revenue goes to the passengers; instead, all such revenue goes to the MTRCL, OK? However, please bear in mind: When we want to enjoy the convenience of lifts and the safety provided by platform screen doors as we move in and out of train compartments, it levies 10 cents on each passenger per trip. Since we travel by the MTR, so it can have a lot of passengers, and for this reason, it can attract a lot of advertising clients. However, the revenue from advertisements does not go to passengers' account. It is so mean. Of course, it can choose its own mode of operation. However, what we are discussing now is a new mechanism of operation. Of course, the Secretary would say this has taken full consideration of the premiums and the share values of the corporation. But, in short, the MTRCL may decide what the figures should look like after doing its own calculation, and if eventually it decides to accept the figures, then it shall have to accept the entire package. If the relevant amendment is passed in the Legislative Council and this section 32G is added, the MTRCL may withdraw from this development. It can do so. We are simply not imposing everything on others and force the MTRCL into accepting everything.

There had once been a private bill which involved the merger of two banks. We said that after the merger had come into effect, the accounts of clients would of course be automatically grouped together. Besides, if the account holders cannot be identified or traced, the balances in such accounts can be consolidated together and become void and cannot be pursued. This is in fact mandatorily forfeiting certain accounts, and the money in some of such accounts may be forfeited. Or after the merger has come into effect, the children or the grand-children of the account holders may be slightly late in claiming or applying for the estates. In fact, under certain circumstances, a time limit might be imposed, such as 20 years, and so on. If no one comes to claim the money, it will be forfeited. It is true that the Legislative Council can really forfeit the rights of certain people. But we are not doing this now. The MTRCL can still tell the Chief Executive, the Financial Secretary and the Secretary that if the amendment is passed, it will abandon this legislation. The Government can withdraw it as well. When the Bill goes through the Second and Third Readings, the officials tabling it, Members or the sponsor may still withdraw it.

Therefore, we are not sticking our hands into its pocket and taking money from it, nor are we revising the contract and applying legal provisions to impose our requests on it mandatorily. This is not true.

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

MR ALBERT HO (in Cantonese): Chairman, I just wish to respond briefly to the remarks made by Mr Abraham SHEK just now. He mentioned the timing — too late or too early — for us to make the demand to establish a development fund at this juncture. In fact, both his allegations of being "too late" and being "too early" were wrong. There are two reasons: First, at that time, we basically opposed the adoption of such a method to finance railway development not because we thought that it was simple and straightforward to launch any railway development or that it was easy to raise capital for the purpose. Instead, as far as the Government was concerned, financing a private company was entirely different from financing a company wholly owned by it. Under such circumstances, we find the past practice of providing hidden subsidies inappropriate. Those pieces of land should be auctioned publicly. So after the auction, we can explicitly define the amount of investment that had been injected into the development. If the Legislative Council at that time had accepted our viewpoint, then whether or not it is necessary to establish a fare stabilization fund would be another issue. We would not ask the Government to set aside some money from the premiums. Therefore, the allegation of being too late in putting forward this proposal is not valid.

Second, in future in the construction of other railways, will there be any chance for us to make the request of establishing a development fund? By then, some new land will be granted for constructing the railways, and there may be some property development over railway stations. But I know it very well that, within the next 50 years of the franchise, should there be a need to construct any new rail lines, according to law, it will no longer be necessary for the Government to table the proposals to the Legislative Council for approval. It would be entirely at the discretion of the executive authority to decide which pieces of land will be granted to the new railway corporation for building the new railway. According to the relevant railway ordinance, we may have the right to raise objection to the alignment. But with regard to such issues as land use and regrant premium, and so on, the Government has all along explicitly told the Legislative Council without any room of concession that these issues would have nothing to do with the Legislative Council. Even for land, such a precious resource which can be converted into money, it is not completely subject to the regulatory control of the Legislative Council. So, by then when there are

property development projects to be launched over railway stations, can we request the Government to make some financial arrangements to set aside some money to establish a fund? I believe by then we would have absolutely no chance at all to discuss it in this Council.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, Secretary for the Environment, Transport and Works, do you wish to speak?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Chairman, Mr Andrew CHENG proposes to add a new part to the Bill for the establishment of a Railway Development Fund and a Railway Development Fund Management Committee. He also proposes that MergeCo must inject 3% of its annual net profits generated by its property-related business into the Fund. Many Members already discussed the Fund and its overall operation from different perspectives when they spoke. I do not intend to make any repetition here.

But most importantly, Mr Andrew CHENG himself has pointed out very clearly that the Fund will operate in a circuitous manner. His ultimate aim is therefore the stabilization of fares. He also hopes that the Government can adopt an open attitude towards this proposal and conduct the required studies. I have no objection to this, and I also think that we can always conduct studies and negotiations on this kind of fare stabilization approaches. All of us are sincere in completing this task, but it will still take time. I therefore do not agree that the proposal should be incorporated into the merger Bill at this stage. The reason is that many aspects of the proposal still require further consideration. Therefore, I hope that Members can vote against the amendment at this stage. Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr Andrew CHENG, do you wish to speak again?

MR ANDREW CHENG (in Cantonese): Madam Chairman, I would like to make several simple responses.

The Secretary was all smiles just now when she said that she would adopt an open attitude. Madam Chairman, frankly speaking, during the past few years, the Government had really made some changes to its attitude on this issue. Of course, we have never said that the Government had already indicated its agreement. We have never said that, nor have we placed the Secretary in an embarrassing situation by saying that she had already agreed to it at that time. However, the Government's stance has progressed from "resisting" the idea in the past to saying that it needs to "conduct studies" on it now. In fact, when there are studies, there are always chances for the idea to be adopted. But at the same time, I am also very afraid because very often, when the Government wants to delay doing something, it would often use "studies" as the pretext. Therefore, the words "conducting studies" are used most cleverly within the Government.

In this Council, I hope everyone can understand that there are many different political parties and groupings, including The Alliance, which is very significant and crucial, as the Liberal Party said. I am sorry for having overlooked you all. In fact, my Honourable colleagues from the functional constituencies, I feel that — I have been listening very attentively just now — today we have demonstrated the discrepancies between two different types of ideologies.

As I listened to the speech delivered by Ms Miriam LAU, honestly, I nearly felt that she was the spokesperson of the MTRCL because she had really given us an outline of the past development of the MTR and the mode of operation of railway. She said that the MTR has not used a single cent of the Government, and this alone deserves credits. When it is doing so well, why do we still have to deduct 3% from it? I attach very solemn significance to her script, and I think in future I must get hold of a copy of it and read it word by word. This will serve as a very good record because very obviously, as the spokesperson of the Liberal Party, she has described the operation, business management, development of the railway as well as the profit pattern of the corporation. On the other hand, in this Council, I have always adopted the perspective of the people in considering the issue. This is vastly different from Ms Miriam LAU who seemed to have adopted the perspective of the operation and development of the railway corporation in considering the issue.

Regarding Mr Abraham SHEK, I have always said that I have great respect for his speeches, even though I cannot agree with each and every one of them. However, even if I did not agree with him, he was still all smiles; we have mutual respect for each other. He said that my proposal had been late by several years. I am really puzzled. In fact, there is no question of being late or early in the enactment of legislation or the establishment of any fund. At present, we are not facing a scenario of losing the MTRCL. Instead, it will only become even more formidable after it has become MergeCo. In future, when it is granted land and pursue further development, it may launch more property development projects, by then I might be accused of being too early in taking certain actions. However, with all common sense, one can never be too early in taking any action. It can only mean that he has made advance preparations for the work he is going to do, if he finds it appropriate to do the work. Even if I agree with his point that I am late by several years, I can do it now in order to make up for it. If he said that I had been too early by several years in taking certain actions, then fine, it just means that I have vision and foresight. I just hope that, by making use part of the profits from the MTRCL's development, we can make some commitment for the overall railway development.

The Secretary had also reiterated "the circuitous method" previously mentioned by me. In fact, I do not wish to use such a method. I was forced into doing this because I was restricted by the Blue Bill. But in the course of discussion, I found the method quite good because if the Fund is designed just for stabilizing fares, its scope would be too narrow. In fact, in the overall railway development, is it not a good thing for us to use the profit from property development to develop railway services? Just as many Honourable colleagues have pointed out, there are many problems before us such as the platforms, the toilets, and the inability to receive radio broadcasts as well as some other problems yet to be encountered. For many items of services which the people want to have but the railway corporations may not be interested in providing, such a fund provides the basis for addressing such issues.

Therefore, Madam Chairman, your request is also good. I refer to your request of asking us not to argue so much on such issues by all means, if we want to go home earlier. *(The Chairman shook her head)* It is because, with our discussion on the Railway Development Fund having come to this stage, regardless of whether it is too late or too early, we in fact still have a lot of time to discuss it in future. I hope the Secretary can undertake to conduct studies on

the issue, and if there are chances for it, I hope the Secretary can let us know the relevant timetable before tomorrow.

Although we cannot get a timetable for implementing universal suffrage — Mr LEE Wing-tat has also asked whether we have to wait until 2047 before the Government can present it to us. And if we add 50 years to 2007, it will be 2057 — the year 2057, right? Right, the franchise will last until 2057. Before 2057, at what time actually can we have the chance to establish the Railway Development Fund which can stabilize the fares and enable us to have a better level of commitment and services in railway development? I expect the Secretary — the new Secretary can make this one of his or her essential tasks in the next five-year term: Conducting studies on the Railway Development Fund.

Thank you, Madam Chairman.

MR JAMES TO (in Cantonese): After listening to the Secretary's speech, I hope even more that the she can reconsider the actions to be taken. In fact, as Ms Miriam LAU said, the contract has really stipulated all the provisions as they are. What we are proposing is tantamount to sticking our hands into others' pockets and take money from it. If so, we need to revise the contract. However, according to my own analysis, this is the most opportune moment for us to do some bargaining, a time for fighting for a new deal. In other words, this is a new situation in which we can engage ourselves in bargaining because I am going to give you something new. Therefore, both sides have to negotiate terms, right? Some people would ask for the provision of toilets, screen doors and a fund. The other party may say they would provide them, or they may say they would not provide them. The terms are as such, we may refuse to accept them and the deal may fall through. So just take it or leave it.

However, once the Bill has been passed, it would mean there is no need for this Fund. If Mr Andrew CHENG is correct in his prediction, his amendment is "doomed", that is, the Ordinance will not have section 32G. The Secretary said that she needs to further consider the issue. Although 25% of the shares are held by the public, but a new request is still made. Of course, if the request of establishing a fund is made, it will become a separate deal that would call for another round of bargaining. Naturally, the Secretary may say that they can amend the legislation, even withdraw the Bill and nationalize the railways.

However, what about the shareholders or fund managers, who stand for 25% of the shareholding, what will they think? If the Government does not consider this when we are conducting negotiations, is it going to make the 3% proposal in future to stabilize the fares and make improvement? Can the Government do that? By then God knows what kinds of legal obstacles will we encounter? I do not know. Maybe by then it is not a lady who applies for a judicial review, as in the case of The Link REIT. But will certain actions be taken by a shareholder who holds 25% of the shares? I really do not know whether we can do that. Of course, someone may say, if we act in accordance with the law, there is nothing we cannot do. However, can we do it according to Article 150 of the Basic Law? In that case, are we not required to present all the justifications?

If, basing on this justification, the Government says that the issue can be considered later, allow me to skip discussing whether Mr Andrew CHENG's amendment is "doomed", I would find such an approach hypocritical, unrealistic and may even cause extremely great difficulties in law. By then, if the corporation makes new requests to you, you may have to give it some new advantages, and then we may have to conduct some negotiation and see if we can accede to its requests. If not, how can the Fund be established? I really do not know what we should do. This answer in fact can be used to respond to Mr Abraham SHEK's allegation of Mr Andrew CHENG "being late". If we adopt Ms Miriam LAU's perspective, we can see that there is no provision in the contract specifying the establishment of a fund. So unless the legislation is amended, how can we ask for something from others? But right now, since we can conduct negotiation, we should, in view of public interests and the development in the next few decades, take this opportunity to decide how the bargaining should be conducted. Should we make the request right now? But when should we say it if we do not say it now? In future, if we meet difficulties, we can initiate legal proceedings, and according to Article 150 of the Basic Law we can.....

CHAIRMAN (in Cantonese): Mr TO, even though you may have a loud voice, you still have to face me when you speak. *(Laughter)*

MR JAMES TO (in Cantonese) Chairman, I wish to tell the Chairman that we shall meet a lot of difficulties. Chairman, I do not know whether the legal

adviser of the Government has told her everything. However, if she had not made such considerations, why should she say recklessly that she does not wish to permit its passage? Yet, she had never considered it carefully.

Ms Miriam LAU said in a radio interview in April that this was a very complicated piece of legislation, and did not know when it could be passed. Now, we are only in June and everything seems to have been dealt with properly. Ms Miriam LAU's words just serve to prove that many issues should be considered by the Government. However, not only are the Government's considerations not in-depth, detailed or comprehensive enough, they are also not made from adequately different perspectives. To our surprise, the Secretary told Mr Andrew CHENG rashly that his suggestion was worthy of further consideration. Certainly, I hope that she can consider it. I have highlighted these problems here from a legal perspective. May I ask the Secretary to reply?

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

MR LEUNG KWOK-HUNG (in Cantonese): I also agree that the Secretary had been saying that casually and was not at all sincere. Because she had said she would consider it. However, when she delivered her speech, she never said what considerations she had made, that is, what she had actually considered, and what are the discrepancies in thinking between Mr Andrew CHENG and herself.

If we put it this way, the public would receive a wrong message, that is, if the Government can get sufficient votes to pass the Bill, it will not object to Mr Andrew CHENG's amendment, and the outcome could even be better. On this point, I find the Secretary rather irresponsible because many Members would really believe in her — I also hope that this is true because the Government's present voting machinery is very formidable. In fact, everyone is eager to call it a day. The fewer Members stand up to speak, the sooner the meeting can come to an end, and then we can put "the seal" on what we have been discussing. I am not a smart and tactful person. Contrary to what most people will opt to do, I chose to speak because I had tolerated this for a long while.

In fact, I have repeatedly pointed out that Mr Andrew CHENG's request is an extremely humble one. For an organization started and developed to full

maturity with government funding, no matter what kinds of subsidies it receives, it will definitely undergo changes as long as it respects public opinion, all the Members of the Legislative Council are directly elected and a government that has to step down if it is defeated in an election. I can bet with my head that this will happen. In other words, if the people consider the fares too high, the Government must by all means identify a way of tackling the problem in order to stabilize the fares. Why can this not be done by the Government?

Now the problem has become extremely urgent — it is like the story of Mr YE's love for dragons¹. Mr YE always told others that he loved dragons very much, but when he really saw a dragon, he went away with excuses, and told others not to look for him for whatever reasons. I find such an attitude most inappropriate. I have always disliked criticizing the Secretary without proper justifications, but why have things developed to such a state?

Because of the long title we have..... The President did not allow us to discuss the fare issue. Last time, when the MTRCL went public, Mr LAU Chin-shek already said that he hoped all future fare rises must first be approved by the Legislative Council. I think, insofar as Hong Kong is concerned, such a practice is most appropriate in the context of the political reality. It is because in Hong Kong, regardless of how different people look at the Legislative Council, it is, apart from the District Councils, still the representative council with Members elected by the largest number of voters by "one person, one vote". If we are still unable to secure the right of regulating the rate of fare increases, it is a grave pity indeed.

I really want to ask other Members whether they want to monitor the fares of the Government (sic). Very unfortunately, when I brought up this issue, other Members said that it had nothing to do with them. In fact, they were constrained by the long title of the Bill, and thus the Government did not allow them to do so. Honourable colleagues, we must examine our own conscience. If the fare reduction is set at 11.6%, the implementation date will have to be postponed. The MTRCL has already specified the period for concessionary fares. If the implementation date is postponed by three months, we shall lose

¹ The idiom was originated from a legendary tale: Once upon a time, a person called YE Zigao always claimed to have a strong love for dragons. The images and patterns of dragon were used on all kinds of his personal belongings and ornaments in his home. The real dragon in heaven was so impressed that it had actually descended to his home to pay him a visit. Upon seeing the real dragon, Mr YE forgot his proclaimed passion, but was so scared that he fled away. The idiom was used to describe someone whose proclaimed conviction is fake and he is not consistent in his words and deeds.

three months for enjoying concessionary fares. However, what reasons do we have for giving up the rights of the eldest son in the family just in exchange for a bowl of red bean sweet soup? Just give you a bowl of red bean sweet soup, and you can surrender the rights of the eldest son in the family.

In fact, I also do not wish to discuss this issue again. The present situation seems to be: Some dissident Members are making some very humble requests, such as toilets, platform screen doors, more fans, and so on. I think many Members do not have the habit of travelling by MTR. Do they have the experience of riding on the MTR? I sweat heavily. After travelling by MTR, I usually become all drenched. If the journey takes a longer period of time (as Mr Andrew CHENG has said, if one or two trains have suspended for 10 minutes or so), the situation will become even worse — my whole pair of pants might become drenched completely. So are we asking for too much in demanding such improvements? Does it mean that, since the Government is very resolute on this issue and that the rail merger is considered a must, then after getting sufficient votes, the Government can ignore such humble requests? This is the critical issue. This reflects that this Council is unable to get this done.

How does this Council operate? First, it depends on what the Government wants to do; secondly, after finding out what the Government wants to do, its allies are informed of what the Government wants to do, and then they can vote according to the Government's thinking. On the contrary, if the Government really accepts Mr Andrew CHENG's proposal, then the Government may do whatever it wants to do. Since it has made a deal with Mr Andrew CHENG, everything can be amended. This is also feasible. Therefore, I sometimes feel that it is completely meaningless to hold any debates here because it is not about justifications; instead, it is about the Government's attitude. Today, we have repeatedly proved that if it is something that the Government intends to do, it can definitely achieve it.

I think, in our discussion, justifications do not matter because the Secretary has never answered our queries in the entire debate (instead, Ms Miriam LAU has answered them, but I disagree with what she has said). She has not answered why 3% does not work. If the Government said it was in too much of a hurry, and serious consequences could arise after enactment, actually the Government may propose amendments, and besides, it has enough votes to do so.

Therefore, the entire Council has been brought to a standstill. Why is the 3% so "fatal"? The Government does not need to explain why. All that the Secretary has said is it would be too hasty to do so. But how hasty is it? The Secretary has not made it very clear. Therefore, I hope when the Secretary rises to reply, do tell us whether she basically consider Mr Andrew CHENG's proposal correct or not. If so, does she intend to implement it? If so, will she make use of an administrative order? If the legislative approach is preferred, why do we not proceed with the legislative process today? If she thinks that she has made a mistake in the bargaining process and let down Hong Kong people, she has the full authority to get back the same number of votes because the so-called "opposition camp" and the ruling coalition will give their seal of approval next time because we want to make it better and better. Therefore, all her excuses do not hold water at all.

I hope other Honourable colleagues can also rise to say something in response, especially those who said they are forced into helping speeding up the legislative process just for the 11.6% fare reduction. Can this mechanism help improve the services or ease the pressure for fare increases in the long run? In fact, I think this request is very humble and the 3% is actually insufficient, right? It is not as valuable as a piece of land. I hope Members can further discuss the issue, otherwise, tomorrow's newspapers, such as the *Oriental Daily News*, will report in this way: The Opposition Camp adopts the delaying tactics again, making use of all sorts of tricks to stop the Government's plan from implementing. In fact, we are not doing anything like that. We are reasonable people.

I think the Secretary may speak again, so may Mr Abraham SHEK, so that he can tell us why we have been late and why we have been early; how we can be late but not too late, and how we can be early but not too early. Please do not underestimate the significance of this Council. After we are elected by the voters, we are not only required to press the button. If all we need to do is just to press the button, then Members do not need to go to work, they can press the button at home. Right? If Members are afraid of making mistakes, they may wear headphones and let Government's allies instruct them how to cast their votes. So, I think debates are very important.

I am not a good debater and my justifications are not too strong either. But for all those who think that I have not been speaking with good grounds, I hope they can teach me and let me know the mistakes I have made. Otherwise,

this Council is even worse than a secondary school. In a secondary school, results are the only thing that matters. So students can easily get "A" grades if they cheat in tests. Why should they need to seek academic progress? Why should we need to seek the justifications?

Thank you, Chairman.

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

MR ANDREW CHENG (in Cantonese): Chairman, my speech is going to be very brief because just now both Mr James TO and Mr LEUNG Kwok-hung asked the Secretary to speak in response to a very simple viewpoint. Although I can see that the Secretary is already very tired now as today's meeting has been going on for nearly 11 hours, I will not be so naive as to believe that the Secretary will really conduct the studies. If I really believe in her, Mr James TO would probably scold me and question whether I have really believed in her. If the Bill is passed, how can we make the MTRCL act accordingly in future?

Mr LEUNG Kwok-hung raised the same question earlier on: How can we convince the future MTRCL by implementing administrative measures with legal basis? If we proceed to study the possibility of establishing the so-called Railway Development Fund or fare stabilization fund, that is, studying the proposal of deducting several percents from the profits, only after the Bill has been passed and the Operating Agreement signed (that is, we proceed to ask for money from the MTRCL after the Bill has been enacted), frankly speaking, I really find the idea not sensible at all. I do not wish to see the Secretary hastily tell us or say with a subjective mind that this is an excellent idea. However, the Secretary should convince us to wait for her to complete her studies, and then go ahead persuading political parties such as The Alliance, the Liberal Party and the DAB who will support her by voting against my Railway Development Fund proposal. Although these political parties may already be prepared to support the Secretary without any persuasion at all, she should still convince me about the basis of her studies.

I would like to implore the Secretary..... According to the script, the Secretary does not necessarily have to speak again. Chairman, you may not

invite her to speak again either. Therefore, I hope the Secretary can speak again, particularly when Mr James TO walked out of the Chamber in great anger after delivering his speech. Although Mr TO spoke a bit too loudly — that is his usual way of speaking — it did not mean that he was rude. He was just a bit anxious about the whole thing. I reckon he will speak to me in an equally loud manner within the Party to criticize me and challenge me for trusting the Secretary's undertaking of conducting studies. What kind of result will come out of her studies? This I should want to know.

Therefore, I would like to ask the Secretary whether she will speak on this point again and tell us she will conduct her studies in accordance with the administrative measures or legal basis. Can it really be done in this direction? Thank you, Chairman.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I already made myself very clear just now. At one time, Mr Andrew CHENG talked about the concept of a circuitous method in regard to the proposed fund. But subsequently, he said that it is not circuitous. In other words, his concept is not yet very clear. What is supposed to be the purpose of the proposed Fund? The Government adopts an open attitude towards every concept. We hold that there must be enough time to explore various possibilities and the resultant consequences. The Government cannot possibly give its consent under the circumstances today, nor can it decide to adopt any administrative or legislative means to handle this matter. I can only say that we adopt an open attitude towards the concept.

I do not think that Mr Andrew CHENG should be overly discouraged. Many an enactment of legislation by the Government is not the result of coercion, one example being the current Rail Merger Bill. The Government simply thinks that this piece of legislation is good to society as a whole, so it has put it forward. During the course of handling the Bill, I notice that although Members have already reached a consensus in principle on certain issues, they have totally reversed their positions today. They even oppose what they already agreed to accept. Many other issues have also cropped up.

For example, when I read the record on the discussion held on 3 March 2004, I found that the Democratic Party was basically supportive of a rail merger

at that time on condition that it can bring forth synergies, improve the mass transit system, lower fares and maintain the transparency of the FAM. This is actually a very straightforward principle. We have also been following this principle throughout, and this has also been one of the ways in which we go about effecting the merger. However, in the merger process, many issues emerged suddenly. We cannot possibly expect that all problems can be solved instantaneously.

However, we think that from the perspective of the mass transit system, the proposal is good to society. The synergies resulting from any efforts to make the MTRCL's operation able to cope with the demands of the overall transport system will be beneficial to the public. We need to tackle this issue as well. But this does not mean that we do not need to handle other matters.

I hope Members can understand — some Members have also put forward the same justification — that even though something that should be handled during the merger process has not yet been discussed, it does not mean that there is no need to discuss it after the merger. It is not possible to tackle all issues all at the same time. What is more, the Member concerned did not put forward the proposal until very late in the discussion process. I need not say how late. Anyway, there has been little time for consideration. He cannot possibly expect the Government to give any concrete reply at this moment. I can only say that my attitude towards this concept is open. Thank you, Chairman.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I just wish to clarify a few points because I believe the discussion by the Democratic Party on 3 March 2004 had certain expectation for the so-called synergy effect of the merger. It was 3 March 2004. Today is 6 June 2007. During these three years, we found that too many problems were involved, such that it makes us worry that the so-called synergy effect cannot be achieved; "one plus one" may not be larger than two. In particular, we worry that the monopolization will lead to "unregulated" circumstances. Furthermore, the mechanism that will allow fare increases and reductions is originally good, but it could become something bad because of the existence of plus or minus five percentage points. Besides, there are also many other problems such as the fact that the passengers of the Light Rail cannot enjoy any fare reduction. As the Secretary has said just

now, many problems have gradually emerged in the course of the debate and deliberation of the Bill. Therefore, I agree that it is necessary to study such problems.

I hope the Secretary can understand that we have really put forward the concept of a fare stabilization fund on many different occasions or in many meetings. Even though the Secretary Since the Secretary did not always attend meetings of the panel in person, and her colleagues would attend such meetings instead, so I would like to ask the Secretary to look up the records to gain a thorough understanding of all the issues.

The Democratic Party has repeatedly raised this issue in panel meetings. Of course, with regard to how one would define "repeatedly", I may be the one who has spoken relatively more in such discussions, if there has ever been a record-keeping system. However, regardless of whether we have been doing it directly or indirectly, it does not mean that we have not deliberated the issue thoroughly. I hope the Secretary can understand that, in advocating the circuitous method, I was forced into doing so by the Secretary. If the long title of the Bill has not been written in such a way, we do not have to do so in a circuitous manner. Instead, we can refer to it directly as the "Fare Stabilization Fund". As I have just pointed out, I said in the discussion that it would be better for us to name the fund as "Railway Development Fund" as it would be more comprehensive and it is also the result arrived at discussions.

Madam Chairman, I hope the Secretary can show some sincerity, regardless of whether the legislation will be enacted anew in future. Frankly speaking, I do not wish to make her She advises me not to feel discouraged, but under the present establishment, as Mr LEUNG Kwok-hung said earlier, and I do not want to repeat his words, under the present political culture, under the present establishment of the Legislative Council with the functional constituencies and geographical direct elections, whenever public interests clash with the interests of the business sector, public interests would always be suppressed by the separate voting system. This is the harsh reality. If this piece of legislation is tabled before the Legislative Council again in future, I believe the Secretary would have to make 10 times the effort as today before she can have the Bill tabled before the Legislative Council again.

Madam Chairman, I will not feel discouraged. On this issue, we shall keep on fighting. However, I hope the Secretary would not speak with rashness, and instead would really conduct studies on this issue. Thank you, Madam Chairman.

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

MR JAMES TO (in Cantonese): Chairman, in fact, both the Government and the MTRCL are very sincere, and hope that the Bill can be passed as soon as possible.

If the lawyers, administrative staff or the management of the MTRCL tell the Government, especially in responding to Mr Andrew CHENG's question, that the issue of the Fund can be discussed later and pass the Bill first, then they really have been very shrewd. It is likely that our Government will be cheated. However, the Government may find the approach of "half-cheating and half-coaxing" acceptable and since soon after the Secretary assumed her office, she started proposing the mechanism that will allow fare increases and reductions, and if she still cannot achieve anything on this issue — especially we do not know whether she can continue to serve for another term in her present office — then how can she have the courage to face the world? Therefore, the Secretary's future political career depends heavily on whether or not the Bill can be passed before 30 June. I believe this is a critical issue.

However, if the MTRCL really intends to gain some advantages from the negotiation of the entire deal, it may stop doing anything further. However, will it require us to give it anything further in future before it is willing to set aside 3% from its profit? I think, someone has acted wisely this time, and while one party aims at exploitation, the other party is prepared to be exploited, and consequently, public interests are sacrificed.

MRS SELINA CHOW (in Cantonese): Chairman, I do not wish to waste the time of everyone, but Mr Andrew CHENG said earlier that some Members had acted to safeguard only the interests of the business sector, and do not consider public interests as most important.

I would like to remind Mr CHENG that the upholding of the spirit of contract has always been a significant factor for Hong Kong's success. This spirit and the rule of law are in fact an integral whole. It is very important to uphold the spirit of contract, and we in the Legislative Council cannot casually and brutally amend contracts at our whim — on the pretext of safeguarding consumers' interests. This is the first point.

Secondly, Mr James TO keeps talking about bargaining and negotiation. But today when we read the copy of the Bill before us, we are no longer at the stage of negotiation. The agreement we read today signifies the process from holding discussions to making the final decisions between the Government and the railway corporations. If we add any provision to the contract mandatorily at this stage by way of legislation, it will definitely affect the basic principles of the entire contract. We are no longer at the stage of bargaining and negotiation. It seems to me that some Members are still describing the situation as "we can still conduct bargaining and negotiation after the Bill has been passed". We should understand the situation perfectly clear and we also hope that the Democratic Party would not mislead other colleagues and make them think that we are still bargaining and negotiating with the other party, and that after Members have discussed certain matters here, the Government can still take them up for another round of negotiation.

If we have to make such a fundamental and significant change in the financial arrangements, I believe it would bring about major changes to the merger in the agreement, and the merger will be at a serious risk. In that case, I do not know whether the Secretary still thinks that the merger can continue to proceed. But I think the whole issue is not as simple as some Members have said, just by pressing the buttons on the calculator a number of times, the problem can be solved. I believe it will not be as simple as that. Therefore, I think we have already reached the stage of making a decision, instead of the stage of bargaining and negotiation.

Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, speaking for the third time.

MR LEUNG KWOK-HUNG (in Cantonese): We are having some very meaningful discussions here, and since it is about contract, it reminds me of a book I read, which is entitled *The Social Contract*. What are we discussing now? We have Company A and Company B here, both of which are companies funded by the money of Hong Kong people, so their profits should be ploughed back for redevelopment purposes. Now the Government has sold some of the shares of Company A and made a profit of \$10.5 billion. This is a remarkably good result, and even Ms Miriam LAU agreed that the Government has made some good money. It is said that the Government, which is also the major shareholder of the MTRCL, is at present holding assets that are worth \$85.7 billion. However, the Government keeps saying that the interests of small shareholders of listed companies have to be taken care of, otherwise the small shareholders will be selling their shares. Yet, why can the Government not engage in a share buy-back exercise? LI Ka-shing frequently buys back the shares of his affiliated companies. Anybody wants to buy the shares? Otherwise, I can take them.

What are we discussing now? What we are talking about is even more terrifying, that is, the railway corporations have already cut a deal with the Government. I do not even know who are talking with whom in the negotiation, because the major shareholder of the MTRCL is the Government, and the major shareholder of the KCRC is also the Government. They are different departments of the Government. In other words, the left hand of the Government has cut a deal with the right hand of the Government, which makes it all the more ridiculous.

Why did I talk about social contracts? Because not every Member in this Council was returned by voters by "one person, one vote" as their representatives. We did not sign the contract voluntarily, and that is because of the existence of the Basic Law. Therefore, when we say we have to respect the spirit of contract, we have to be aware that in the context of capitalist revolution in a capitalist society, what is being asked for, first and foremost, is that social contracts must be respected in politics. If the contracts are not observed, how are we supposed to legislate on the basis of public opinion?

With regard to this question, when we say it is now too late, because the proposal presented by the Government now represents an agreement with the MTRCL, and if we should keep discussing the issue in this direction, it will make the Government unable to deal with the MTRCL..... there are a couple of

MTRCL staff members on the public gallery. Can they go back to consult their supervisors tonight if this is really the case and give us a statement afterwards.

What we are discussing is to set aside 3% of the revenue from property projects. As Mr Andrew CHENG said just now, if it generates \$5 billion per annum, 3% represents only \$150 million. Multiplying it by 50 years, we can come up with a mere sum of \$7.5 billion. Is this too much after all? Besides, we are not only striving for stabilizing the fares, and there are reasons for us seeking fare stabilization. However, the logic of the MTRCL is that development calls for investment, and investment will invariably have a bearing on fares, since they will not be making enough money. Naturally, as I pointed out before, I really do not understand why it is necessary for a public corporation to make that much money. If it is necessary to launch further development, applications for low-interest rate loans can be made with the Asian Development Bank or other institutions. If the loans are granted, that would incur capital repayment and interest payments; still, these are sums that can be accounted for.

According to the concept proposed by Mr Andrew CHENG, if platform screen doors are to be fitted or if any major development is deemed necessary, they could get the money from the Fund whenever they feel the pressure. That again refers to the fares. As the argument goes, development will invariably bring the profits down and will make the small shareholders unhappy, so only by raising the fares will they be pleased. Regarding these issues, the more discussions are held, the clearer they will become, is that right? Today we are only making a very humble request. In fact, we are only asking for an amount of \$7.5 billion to be paid in instalments over 50 to 70 years. The question is: Is the Government willing to make a deal? What other factors they still have to consider? Why is such consideration still necessary? Why do they not just make the deal?

We have had a very good lesson in politics in this Chamber today. Many people also believe that matters that have been discussed by the Government, matters for which an agreement has been reached between the Government and big corporations, or matters for which an agreement has purportedly been reached between the Government and big corporations, where the Government itself is also the big corporation in disguise, must not be examined by the Legislative Council in the way we examine a newly bought flat to check for water seepage. This is the first point.

Second, as I have repeatedly mentioned, the transfer of assets will certainly affect the long-term development of Hong Kong. It is indeed a mistake on the part of the Legislative Council in allowing the Government not to conduct a comprehensive consultation. If we examine the issue from the perspective of long-term development, since the Government has described it as so significant, for which payment for a period of 50 years is warranted, why do we not..... I am not versed in this. I am a green hand in the Legislative Council, and I do not know whether that would warrant the issue of a "paper" of a certain colour. Had that been done, public opinion would have been reflected, meaning that the Government may conduct a public opinion survey in accordance with the "paper" of a certain colour. If Robert CHUNG was commissioned to conduct a survey, then Members need not argue over the issues here. Did the Government do this? What could have been more urgent than the enactment of legislation to implement Article 23? The Government did conduct a public opinion survey for the enactment of legislation to implement Article 23, what it did not do was publishing a "paper" of a certain colour (I have forgotten whether it should be "green paper" or "white paper"). Why can this not be done?

If the MTRCL is truly generous and kind-hearted, if what we say should unfortunately be proved to be true, that the matter will be delayed for half a year, then let us extend the concessions for another half year. Why do we not do this to give the public a chance to express their views, so as to ensure that the merger is done in a way that is in line with public opinion? A contract, in the context of social contract, is about the expression of public opinions and the representation of public opinion. Members in this Chamber only talk about capitalism and profit-making, but they do not talk about the social contract theories formulated during the capitalist revolution. Has it not been said that nobody can pretend to be a representative of the people without the mandate of the people? Had there not been the capitalist revolution, would those contracts have ever existed at all? The emperor could arrest you any time and put you to "rest". The first thing in the Charter Revolution is about sustainability, meaning that in a democratic revolution, the people must be able to sustain themselves from being arrested by the government.

Therefore, what we are discussing in this Chamber today is the dirtiest thing of the capitalist class — profiteering, and there is no talk on matters in relation to capitalist progression. I cannot help but doing this, because our Council is one that is stained by the foul odour of money, one that is smeared by oil and ink. Therefore, in my opinion, if the Government should continue to

obstruct the voting of today on the grounds of the so-called spirit of contract, and if it will keep telling Members that if, at this very minute, they are still considering Mr Andrew CHENG's amendment, then they are breaching the spirit of contract, and this would inevitably make the Government breach the contract, then the MTRCL will thus consider breaching the contract as well, thereby making the merger to fall through. If the merger should fall through, the fare reduction by 11.6% will fail to materialize, and what the Government has done is actually like putting the cart before the horse. We care so much about Hong Kong people, and we have this mechanism before us that will make it easier to achieve a fare reduction of 11.6%, or the corporation will have to present justifications before any fare increases can be introduced, what is wrong with that? The Government must not put the cart before the horse, which would be the worst thing to do.

With regard to whether or not this Council has the authority to make the decision on these matters, it is already too late now. Today, I had planned to meet someone at ten o'clock, and originally I did not have to make any speech. But as I listened to the speeches in this meeting, I became increasingly angry. How can the authorities teach me to honour the spirit of contract, but at the same time tell me that there is no need to uphold the spirit of social contract? I really need to ask and learn from the theorists because I have never heard of something like this before. I have only heard that the spirit of contract exists only if a government honours contracts and is mandated by the people. Thank you, Chairman.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): At this rate, I think we shall not be able to finish the meeting even by 12.00 midnight. Therefore, I have made a decision right away. I have just seen that several colleagues have raised their hands. I now suspend the meeting, and we shall continue tomorrow.

Suspended accordingly at four minutes past Eleven o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENT**

The Secretary for the Civil Service requested the following post-meeting amendment in respect of a supplementary question to Question 5

Lines 9 and 10, second paragraph, page 38 of the Confirmed version

To amend ".....then discretion might have to be exercised to adjust the starting salary point for these particular ranks upwards for that year." as ".....then discretion might have to be exercised to adjust the starting salary point for those civil servants recruited to a certain rank and whose qualifications were found to be higher than the minimum requirement." (Translation)

(Please refer to lines 9 and 10, first paragraph, page 7773 of this Translated version)