

OFFICIAL RECORD OF PROCEEDINGS

Saturday, 5 March 2011

The Council continued to meet at Nine o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING, J.P.

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

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

THE HONOURABLE STEPHEN LAM SUI-LUNG, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

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

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

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

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

CLERKS IN ATTENDANCE:

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

BILLS**Committee Stage**

CHAIRMAN (in Cantonese): Good Morning, Honourable Members. The Committee now resumes the joint debate on clause 43 of the Legislative Council (Amendment) Bill 2010 and the two amendments. Does any Member wish to speak?

LEGISLATIVE COUNCIL (AMENDMENT) BILL 2010

MR ALBERT HO (in Cantonese): Chairman, the debate today is on the last amendment. I must take this opportunity to speak. Yesterday, Mr WONG Yuk-man, the last Member who spoke, launched quite an all-out and violent attack on the Democratic Party and me. Honestly, many of his verbal attacks were impregnated with emotive outburst, devoid of any logical thinking. However, I must still respond to what he said. Let me cite some examples, and Members will understand what I mean.

Of all the remarks made by Mr WONG Yuk-man, the only one which is a bit more relevant to the Budget is Sorry, it should be the amendment. In connection with the amendment, he quoted two comments that I made in public, with the apparent intention of accusing me of being inconsistent and self-contradictory. Which two comments did he quote? The first comment was the one I made in a City Forum session: The various political parties and groupings should join hands to strive for lowering the threshold to 10 nominations, so as to allow more competition. I said so at that time because I thought that every political party or grouping not having too many District Council (DC) seats would hope to be given opportunities to take part in the competition. I further said that in putting forward its improved constitutional reform package, the Democratic Party in fact welcomed more competition. This was the first comment of mine that he quoted.

The second comment of mine that he quoted was what I said at a press conference held by the Democratic Party — the proposed threshold of 15 nominations is in compliance with the undertaking made by the Chief Executive when accepting the improved package. It was 21 June last year, at which time a

threshold of 10 to 20 nominations was mentioned. I pointed out at the time that if the threshold could not be lowered to 10 nominations, we would make the best use of the nomination right in our hands (that is, all our DC seats) to help those persons whom we consider having convictions identical or similar to ours and capable of competing in the election.

Members all know that there are open records on these two comments of mine. How can I ever deny what I have said? I am never a person who denies what he has said. I believe that when listening to him, Members must all be very confused and could not see the point of his diatribe. Actually, these two comments are not contradictory. They only serve to explain what are to be done in two different scenarios. For example, if it is possible to strive for 10 nominations as the threshold, we will fight for 10 nominations as far as possible. This is the first step we will take. If we cannot succeed in fighting for 10 nominations and the threshold is set at 15 nominations instead, we will still do as much as possible within the capability of the Democratic Party to bring forth an election marked by competition.

These are called "alternative positions", that is, courses of actions planned for two different scenarios. They can also be called "fallback positions", that is, prepared courses of actions to be taken in case the objective cannot be attained. Such a situation is actually very common in the course of planning. I therefore cannot see the point of his tirade. The only judgment I can make is that Mr WONG Yuk-man is not clear about the meaning of "contradiction". Along his line of thinking, I would surmise that he actually wanted to say that since I had mentioned both 10 nominations and 15 nominations, I must be self-contradictory, not a man of my words. His thinking is so very simplistic. Members need only to think about the whole thing a bit more clearly, and they will realize that there are no contradictions at all. Therefore, Members can see that his emotive attacks were just based on certain isolated phrases and expressions taken out of context. His attack on Ms Emily LAU was of the same nature. Ms Emily LAU explained very clearly at the time that what she wanted was a reasonable threshold, and the range between 10 nominations and 20 nominations could be acceptable. This has been the Democratic Party's stance throughout. On 23 June last year when we cast our votes, this was likewise our stance. Therefore, if his mental faculty is unable to handle even this kind of logic, and if he does not even know whether there are any contradictions, it is truly very difficult to argue with him. Mr WONG Yuk-man's mental faculty, of course,

should not be so low, but his emotions simply overwhelmed his rational thinking, and bent on attacking others, he simply hastened to do so once he could grasp anything that could be attacked and used as a focus. Frankly speaking, he has not yet sorted out the logical relationship involved, nor has he done any comprehensive analysis properly. This is the first point.

As for the second point, Chairman, he expectedly mentioned once again that Emily had once said that she would resign if she failed to honour her undertaking. Actually, as Members all know, last year

(Mr WONG Yuk-man rose to his feet)

MR WONG YUK-MAN (in Cantonese): When I spoke yesterday

CHAIRMAN (in Cantonese): Mr WONG, this is not the time for you to speak. Please sit down.

MR WONG YUK-MAN (in Cantonese): Mr Albert HO, be careful with your words. I must tell you that

CHAIRMAN (in Cantonese): Mr WONG, please obey the Rules of Procedure.

MR WONG YUK-MAN (in Cantonese): Did you hear what I said yesterday clearly?

MR ALBERT HO (in Cantonese): Chairman, never mind. He may make a clarification later on. However

MR WONG YUK-MAN (in Cantonese): Of course, I will.

MR ALBERT HO (in Cantonese): Chairman, let me perhaps put it that way. On the issue of setting the threshold at 10 to 20 nominations — if Mr WONG Yuk-man thinks that this is not what he means, it is all right — someone has indeed said that Ms Emily LAU should resign because she was not a woman of her words and failed in her fight for a threshold of 10 nominations. Actually, Ms Emily LAU has already made it very clear. No one has ever said that they want to fight for a threshold of 10 nominations. So, how can there be any such undertaking? Honestly speaking, what is meant by an election undertaking? Actually, Mr WONG Yuk-man also made an election undertaking. On 9 January last year, around the time of the "five geographical constituencies referendum", he similarly said that in case the turnout rate was below 20%, he would still resign even though he was elected. Does he admit that he did say so?

MR WONG YUK-MAN (in Cantonese): I will reply to this later.

MR ALBERT HO (in Cantonese): Just let him reply. He did say so. All is very clear. He said that even if he won, the whole thing would still be meaningless, and it would be shameless of him to stay behind. I do not know whether he feels any shame when he still sits here and chides others today. You must explain to Members what is meant by "shameless".

Third, over the past few days, some Members have also pointed out that amendments of this kind are all the outcomes of backroom politics. According to them, if we had discussed the relevant issues properly and openly back then, all discussions would have concluded, and it would not have been necessary to say so much in the debate today. Chairman, when we conducted negotiations back then, we only talked about one important framework. This framework was the one which the Chief Executive disclosed on 21 June, when he made his open undertaking. I think what we must consider now is the question of whether the many legislative amendments are within this particular framework. Some Members may of course say that they do not accept this framework. In that case, it will be necessary to reopen the debate last year. We may once again debate many different issues. There is no problem with that whatsoever. Actually, I already made this point during the two resumption of Second Reading debates. But I only wish to reiterate that at that time, the number of nominations to be adopted as the threshold was really not brought up. At that time, we only

mentioned that we must ensure reasonable competition. The Chief Executive later commented that a threshold of 10 to 20 nominations by DC members would be a reasonable one. And, we agreed with him on this. This is not the outcome of any backroom politics.

Chairman, the whole process — spanning from the time after the negotiations to the so-called "Chief Executive's 21 June announcement" and his undertaking regarding these two pieces of legislation — has been described very clearly in the Democratic Party's report for public information. Many people have asked us various questions after reading the report. And, I have attended many seminars conducted in local communities and by universities. I have responded as far as possible to the views of all people, whether they are adversarial to me, dissatisfied with me, or supportive of me. How can there be any backroom politics here?

But backroom politics did exist elsewhere. Years ago, Mr Albert CHAN supported Donald TSANG. That meeting in 2005 was precisely an example of backroom politics. He met with the Chief Executive alone, and was not willing to accept even the presence of one more person at the meeting. "Tai Pan CHENG" introduced him to the Chief Executive, but he told "Tai Pan CHENG" that he did not need his company, and that it would be fine for him to see Donald TSANG alone. Why do we not ask him to tell Members what happened? Why do we not ask him to give us a report? What did Donald TSANG promise him years ago? Why did he nominate Donald TSANG? Was that because he did not like Mr LEE Wing-tat? This was not the reason, of course. Even if he did not like Mr LEE Wing-tat, he did not need to support Donald TSANG either. He might have a thousand reasons, and he did not need to support Donald TSANG. Why did he support Donald TSANG? What did he discuss at that backroom meeting? "Tai Pan" is very clear about the whole thing. "Tai Pan" said that his mission was just to render assistance to Mr Albert CHAN in having a meeting with Donald TSANG. But then, Mr Albert CHAN wanted to see Donald TSANG alone, and he wanted neither any discussions with "Tai Pan" nor his presence at the meeting. Why do we not ask Mr Albert CHAN to give an account of the whole thing and issue a report on why he supported Donald TSANG? He supported Donald TSANG, thus leading to this wretched situation today. What explanation can he offer to everybody?

Chairman, much of what has been said in today's debate involves whether there is any theoretical basis. When one chooses to even argue over a threshold of 10 to 15 nominations, there is not any theoretical basis at all. Actually, if Members are aware of the viewpoints we have put forward and the articles we have written since the debate last year; if Members are aware of our key wordings and our discussions on how we should strive for an intermediate result of attaining a quantitative change that can bring forth an irreversible qualitative change; if Members are aware of the expressions we have used, they will realize our theoretical basis. Naturally, when talking to the general public, we have been using relatively simple expressions, and such expressions are similarly used in the report of our six-person working group.

But my main presentations just now are precisely the core of our theoretical basis. Yesterday, Mr WONG Yuk-man even asked us what expositions we had. His question can aptly show that he does not have a very good grasp of such theories, and that he may not have read too many books on these issues. I will only offer a brief explanation here, and I do not intend to say too much. The whole theory of quantitative change actually originated from two schools of socialist thoughts after Karl MARX. One of them was advocated by Eduard BERNSTEIN, and it came to influence the development of progressive socialism or evolutionary socialism in the whole of Europe. This school did not achieve much success in Europe because of the emergence of national socialism. However, it later produced immense influence on the transformation of the whole of Britain, in what was referred to as the Fabian Movement. Many people maintain that this theory of quantitative change was the reason for Europe's ability to avert the occurrence of violent revolutions, because the emergence of welfarism was facilitated by the manifestation of many Marxist ideas through the expositions of this theory. Many people do not see eye to eye with BERNSTEIN, but they will not argue that his proposition is not an exposition. If Mr WONG Yuk-man is aware of the whole theoretical basis Members may be aware that Mr Benjamin MA has recently written an article in which he criticizes me and questions me whether I know that BERNSTEIN was a failure. It is all right for him to think that BERNSTEIN was a failure. But the fact remains that this is the basis of our whole exposition.

In the forties and fifties of the last century, in the domain of philosophy, there was a debate on SARTRE and CAMUS among the French intelligentsia or

philosophical circle. One of them was the founder or master of existentialism, and the other was a proponent of humanism. According to CAMUS, no human victory is final, so men must forever struggle hard. They may encounter repeated failures, but it is important that they must struggle on. For this reason, men must strive for what they want every step of the way. Members all know that this year is the centenary of CAMUS' passing away. Was it last year? Last year was the centenary of CAMUS' passing away. Many of his ideas are highly regarded by the French. SARTRE's hopes on STALIN years ago all turned out to be illusory ones. We have advanced many such expositions of theories. In the future, we will publish more essays on these issues.

It is all right even if Mr WONG Yuk-man is not interested in such issues, or if he does not want to read all these articles before criticizing others for doing no expositions, because he is free to have his own viewpoints after all. And, as you put it yesterday, Chairman, it is very often a struggle between two routes, ways of thinking and schools of philosophy. This struggle or competition has been going on for over 100 years. It is all right to carry on this debate today. But I really think that he should allow himself to be more liberal-minded, so as to understand what others are saying.

Chairman, the last point I want to make is that on many issues, we have seen many divisions and even further divisions of views, so it is impossible to forge any consensus. But I welcome continuing dialogues. However, if we cannot come to any agreement, we will have to appeal to society, so as to see how the general public, as the ones affected by our final decision, will make their judgment at the end of the day. Therefore, I think that there is no alternative and our only recourse is to appeal to the general public, so that they can voice their aspirations through the ballot box.

What has disappointed and enraged me most is one remark made by Mr WONG Yuk-man yesterday. He himself should remember this remark, and he must not deny having said so. He remarked that many people were "blind fools", downright "blind fools". It is really a bit shameless of him to insult the public in this way, to say something like this. When they organized the "five geographical constituencies referendum", they claimed that they wanted to return power to the people. But now, he says that many people are "blind fools". How can they say anything like this? He must give the public an explanation

today. Is that because he cannot command the support of the masses, so he describes them as "blind fools"?

(Mr WONG Yuk-man rose to his feet)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, a point of order?

MR WONG YUK-MAN (in Cantonese): I think it is my turn to speak.

CHAIRMAN (in Cantonese): This is not the time for you to speak. Please sit down.

CHAIRMAN (in Cantonese): I am very interested in Members' debate on political philosophies. I hope that we can organize a debate on a separate occasion and invite the political philosophers in this Council to take part. Before I invite other Members to continue to speak on clause 43 and the two amendments, I wish to remind Members that according to Rule 41(1) of the Rules of Procedure, a Member shall restrict his observations to the subject under discussion and shall not introduce matter irrelevant to that subject. If the debate turns irrelevant to the subject under discussion and becomes a session of mutual attacks among different political parties and groupings or Members, I shall have to direct it to stop. I now remind Members that we are conducting a debate on clause 43 of the Bill and the respective amendments moved by Ms Emily LAU and Dr Margaret NG.

MR ALBERT CHAN (in Cantonese): Chairman, I have known Mr Albert HO for more than 25 years. Seeing how he has resorted to such despicable and dirty means to smear others and distort the facts today, I am very indignant. That I supported Donald TSANG in the election in 2005 is a fact known to all. That I had a meeting with him is likewise a fact known to all. There is no backroom politics as such, so please do not distort the facts. Before I formally announced my support for him, I also issued a report and even posted notices all around my entire constituency. Not only did I give a clear account of the whole thing, I

also explained on my website why I supported Donald TSANG. All this was written clearly in the whole report and everything was accounted for. But Mr HO still accused me of offering neither any account nor any explanation.

I had two reasons at the time. The first reason was that the representative sent by the democratic camp was even worse than Donald TSANG. I talked about this point many times, and I also said so many times in this Chamber. But Mr HO did not show up for the meetings, and he did not listen to our speeches. Every time when I spoke, no Members in the Democratic Party were present. The second reason was that Donald TSANG made two promises to me. First, he promised that during his term of office, he would seek to prevent any deterioration of the disparity between the rich and the poor. I initially requested him to alleviate the wealth gap problem. He pointed out that he might not be able to do so, but he undertook to tackle the issue, so as to prevent the disparity in wealth from worsening. It subsequently turned out that he could not even keep this promise, though. His second promise was that he would speed up the construction of community facilities in Tung Chung and Tin Shui Wai, including the building of sports complexes, swimming pools and community libraries. Prof Patrick LAU knows very well that at that time, we were striving for the construction of such facilities because after the dissolution of the two municipal councils, the works projects concerned were held up, and these facilities were left uncompleted.

At that time, I told him my hope that he could tackle these two issues: First, alleviating the wealth gap problem; and, second, easing the plight of the residents in these two districts. Other Members were not aware of the misery suffered by Tin Shui Wai and Tung Chung residents at that time. For these two reasons It is indeed true that the first request has not been tackled, but the second request has been attended to. Immediately after his election, Donald TSANG instructed his staff to expedite the works projects in Tin Shui Wai and Tung Chung. And, subsequently, in its publicity campaigns, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) frequently claimed that it had succeeded in its fight for better facilities in Tin Shui Wai.

Chairman, all our views on the subject of discussion today, including Mr WONG Yuk-man's accusation that the Democratic Party has broken its promises and betrayed its electors, are ironclad facts. Mr Albert HO spoke for a very long

time just now, but he never explained why he had run counter to his political platform. He only lashed out at Mr WONG Yuk-man for making certain remarks. I must point out that such remarks had nothing to do with his political platform. Mr Albert HO, Mr WONG Yuk-man's remarks on what he would do in case the turnout rate exceeded a certain percentage was merely an opinion expressed in the course of discussions and had nothing to do with his political platform.

Mr Albert HO is even unable to tell what a political platform is. Just now, he said that the political platform

(A Member interrupted)

Those are not promises as such. Therefore, I think that he was not talking sense at all

CHAIRMAN (in Cantonese): Members are advised not to talk among themselves in private.

MR ALBERT CHAN (in Cantonese): This therefore shows fully that Mr Albert HO was running out of any cogent arguments, so he simply resorted to the distortion of facts. While he did not even know when CAMUS passed away, he talked about existentialism. He said that CAMUS had been dead for 100 years. But CAMUS probably passed away only as recently as in the 1960s. Therefore, he was not even familiar with the basic facts, but he still posed as an expert.

Chairman, let me return to the question of whether this phoney constitutional reform package should be supported. In his exposition, Mr Albert Ho claimed that this was a quantitative change that might lead to a qualitative change. The point is that for a quantitative change to lead to any qualitative change, the quantitative change itself should also bear some practical significance. And, when it comes to whether such a so-called quantitative change should be supported — I am now discussing this question on the basis of his theory — all must depend on whether it is a meaningful change or just a phoney one.

Members may look at the relevant provisions of this phoney constitutional reform package, including those on the development of direct elections in geographical constituencies and those on additional functional constituency (FC) seats. When we look at the package as an integrated whole, we will observe that all is just a deceptive change that will never achieve any genuine progress. There will be no change to the 30 existing FCs, as company votes will remain. As for the "super District Council (DC) FC" seats, Mr Albert HO or the Democratic Party has depicted them as something very wonderful, claiming that when it comes to voting, all the 3.2 million electors in Hong Kong can cast their votes. But the nominating procedure is absolutely restrictive, it must be pointed out. How can they separate nomination from voting? Under the nominating procedure, there will be restrictions on nominators; not only this, the eligibility requirements for nominees will likewise be highly restrictive. As I mentioned yesterday, no other FC elections are as restrictive as the "super DC FC" election in terms of nominating procedures. This is what we can observe. We must also note that this so-called quantitative change will actually perpetuate the existence of FCs.

The Alliance for Universal Suffrage (AUS) led by Mr Albert HO and the Democratic Party initially set down three bottleline conditions and insisted on having a clear timetable for abolishing FC elections. He has betrayed not only his allies in the AUS but also the League of Social Democrats as well as others back then. On our part, we have no grievances. But he has even betrayed all those in the AUS.

CHAIRMAN (in Cantonese): Mr CHAN, you have spent enough time on responding to Mr Albert HO's remarks just now. Please return to the relevant amendments.

MR ALBERT CHAN (in Cantonese): Chairman, because the present "phoney constitutional reform package" and the threshold of 10 or 20 nominations are all very significant issues. It has now turned out that even those in the AUS have never heard of any mentioning of setting the threshold at 10 or 20 nominations. He said that they had never said so. I hope Members can all listen up.

(Mr Albert CHAN played an audio recording of Ms Emily LAU's remarks on the spot)

CHAIRMAN (in Cantonese): Mr CHAN, please switch off the audio playing device.

(Mr Albert CHAN then switched off the audio playing device)

CHAIRMAN (in Cantonese): Mr CHAN, as an established practice, the Official Record of Proceedings of the Council records all remarks delivered in its meetings on a verbatim basis. As for the recording you played to us just now, no record will be kept. Therefore, you may reproduce the relevant contents in your own words. If there is any need for verifying the authenticity of the recording, you may do so outside this Council. The Council does not handle such broadcasting as an established practice.

MR ALBERT CHAN (in Cantonese): Chairman, it is no big problem whether any record is to be kept. But Mr Albert HO said just now that those persons had never made any such remarks. Whether any record is to be kept is not of any great importance to me. But concerning all those facts, I wish to Because during the debate on the expression of "bullshit" used by Chief Executive TSANG, we likewise played some recording, Chairman.

CHAIRMAN (in Cantonese): You may reproduce the relevant contents of the recording

(Mr Albert CHAN played the recording of Ms Emily LAU's remarks on the spot once again)

CHAIRMAN (in Cantonese): Mr CHAN, I insist that you immediately turn off the broadcasting device.

MR ALBERT CHAN (in Cantonese): Chairman, as we heard clearly from the recording, Ms Emily LAU said the threshold should preferably be 10 nominations. However, she did not say that it must be 10 nominations. She

may argue that she only said "preferably 10 nominations", rather than "must be 10 nominations". She may argue that she only said "preferably". I hope she can further explain it later.

Chairman, why is the debate on the whole constitutional system and whether the threshold should be 10 nominations so very important? The reason is that as Members know very clearly, given the electoral system for DCs, if one wants to get from the 400 or so DC members It is especially worth noting that given the all-out development of the DAB and the Communist Party, district-level elections — up to this year, I have been a DC member for 26 years. Expansion in the districts is now dominated entirely by the pro-China camp or the DAB. Others are simply no match for them in terms of resource and manpower support. The pro-China camp and the DAB have turned super-wealthy and super-gigantic. With all the resources invested by the government of 1.3 billion or 1.4 billion people, and with the leaders of various provinces and cities providing their all-out support, district-level elections have become a major propaganda front of the Central Authorities, right? When the Communist Party treats district-level elections as a major focus of propaganda of the Central Authorities, I believe that other political parties wishing to compete with them will just be daydreaming.

Therefore, numerically, neither 10 nominations nor 15 nominations seem to be substantial at all. Surely, to the DAB, these numbers are nothing but just an "iota", and to the Federation of Trade Unions, this is also the case. They will not have any problems with 100 nominations, not to mention only 10. However, when it comes to a formal nominating procedure, raising the threshold from 10 nominations to 15 nominations will effectively deprive many organizations and individuals of any opportunities of participation. When the nomination outcome is controlled by the number of nominations under the system, election-rigging will result. Therefore, at the very beginning, we opposed the creation of such super FC seats. Members will agree that even 10 nominations are too many and should not be adopted as the threshold, right? I maintain that nominations should be made by electors, rather than DC members. As a matter of fact, the number of nominations will definitely affect the election outcome.

Chairman, let me return to the discussion of quantitative change and qualitative change. We must check whether the addition of this super FC can produce any material quantitative effect on the democratic development of the

constitutional system as a whole. As a matter of fact, I think that rather than producing any material effect, this will instead produce side-effects and negative impacts. In regard to this super DC FC election, we have seen clearly that despite Dr Margaret NG's vigorous pursuit, we have still failed to break up the constituency into five small ones, and there will be only one single territory-wide constituency. In my analysis yesterday, I pointed out that having one single territory-wide constituency would definitely give an advantage to political parties with substantial financial strength and influence, and that such a super DC FC election will further stifle the participation of small organizations. How can these organizations muster several million dollars? How can these small political parties conduct any publicity to enable all people in Hong Kong to know of their existence?

The creation of such a super DC FC will only make the path to democracy in Hong Kong even more tortuous. The reason is that those that are left will either be big consortia or large political parties. The room of survival for small organizations will be further stifled. A Member has put forward such a specious theory in this Chamber, pretending that his exposition is very sound. He looks so righteous, so devoted to taking a further step towards realizing the conviction and ideal of democracy. People who do not know the issue well may really be deceived by him. As rightly pointed out by Mr WONG Yuk-man, some people are really "blind fools". They may really be deceived by him because what he says appears to be very correct. He says that 3.2 million electors will be able to vote, and that everyone will be able to participate under this system. If one looks only at the superficiality and listens only to his exposition, one may really be deceived by him, Chairman. However, if one knows that electoral model well enough; if one understands that system well enough; if one knows the impacts of that election well enough, one will realize clearly that the creation of this super DC FC will only distort the electoral system further. When the electoral system is further distorted, one cannot say that the system embraces more democratic elements because public opinions are simply distorted by those who have power and influence. Any system that denies the participation of small organizations is no longer a fair and reasonable system.

CHAIRMAN (in Cantonese): Mr CHAN, you should put forward this viewpoint during the Second Reading debate. I permit you to respond to the remarks delivered by Mr Albert HO just now, but you should be concise.

MR ALBERT CHAN (in Cantonese): Chairman, this response of mine is very important because the present discussion is on quantitative change and qualitative change. The Democratic Party's stance of support for this super DC FC is entirely based on its theory of quantitative change. Admittedly, the Democratic Party also talked about quantitative change on some other occasions in the past, but this is the first time that it formally puts it forward in this Chamber as an exposition and a more cogent explanation. Therefore, this debate I am disappointed because previously, the Democratic Party did not conduct its discussions on the basis of any detailed theories. I hope that in the future or when it gives its response later on at this meeting, the Democratic Party can offer us a further analysis of how this so-called quantitative change can enable the people and small political parties to participate to foster democratic development, and honour the pledge of abolishing FCs. The demands of the Alliance for Universal Suffrage are all very clear, but the Democratic Party has eventually betrayed not only Hong Kong people but also its closest ally, the Alliance for Universal Suffrage, in this regard. The reason is that before the three bottom-line demands of the Alliance for Universal Suffrage are met, the Democratic Party has already made a clandestine deal and accepted the phoney constitutional reform package.

Therefore, Chairman, this is a dark age for democracy. After the passage of the package, the pro-democracy movement in Hong Kong will be plunged into a dark age in the coming decade or so. I am personally very saddened by the present course of development. The struggle for democracy will also turn more difficult.

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, this is the second time you speak.

MR WONG YUK-MAN (in Cantonese): Chairman, I spoke yesterday because chairman Albert HO was here. And, of course, the debate today and the whole debate over the past few days on the two relevant Bills cannot possibly do well without them, right? The reason is that without them, all these Bills would not have been put forward, right? It is only natural for me to focus on their mastermind, right? He remarked that my emotions had overwhelmed my rationality, and that there was no logic in my arguments. Well, although he

sought to dismiss my 15-minute speech yesterday in such a simplistic fashion, I do not intend to respond to his criticisms.

Emotions sprouting, one's rationality will go no further. This is bound to be the case, right? However, I am not talking about myself. Let me first respond to his outburst of anger. We have rarely seen such a displeased Albert. As I can make him so upset, I am really something, right? He accused me of two things, and these two things upset him very much. According to one of the accusations, I once made an election undertaking that instead of continuing to stay shamelessly on this Council, I would step down to assume responsibility if the turnout rate of the "five geographical constituencies referendum" was below 20%. I said these words during a Radio Television Hong Kong interview hosted by Sharon CHEUNG. These words were actually uttered in context. What went before these words was the fact that the pro-establishment camp had not started to boycott the election at that time. If the pro-establishment camp had run in the election, how would the turnout rate be just 20%? Please do not try to wrong me. Please also listen to what went before these words. Do not be so delighted, thinking that you have found a point to dwell on. All this does not matter so much. It does not matter so much whether you or the public accept this explanation of mine. The important thing is that you are a person of so low a calibre, right? Do not think that simply by talking about these few points, you can claim that you have responded to WONG Yuk-man's remarks. I also have a book as evidence. My several relevant speeches in the Legislative Council are all recorded in black and white. I have sound justifications to query this package of yours. You should seek to refute my justifications one by one. But you have instead picked these several points for discussion. You make me very disappointed. You are at least the chairman of the Democratic Party, right? We have been arguing like people in the marketplace. I can do so because I am a philistine. But you are the chairman of a large political party, right?

Second, you accused me of treating electors as "blind fools". In this connection, you did not listen clearly to all that I said either. I was actually saying that it was you who treated electors as "blind fools", right? You thought that it was very easy to deceive electors. So, you claimed that they would continue to support the Democratic Party, and that opinion polls continued to show high rates of support for the Democratic Party. For pity's sake, Albert, you have been working for several decades, right? You want to criticize me, but however hard you rack your brains, you can only "scoop out" these two things. I do not like to settle old scores, nor do I want to talk about But you even

disclosed my family affairs to journalists. I do not want to mention all this. Your disclosure of my family affairs is not such a serious matter to me anyway. But what is so disgusting is that you lumped my family affairs and the political party together. I have not blamed you even so, Albert. It is pointless for you to tender an open apology, right?

I am frankly very unhappy about your mentioning of all these matters which have nothing to do with the interests and affairs of the public. But I have not blamed you. However, you should explain why you have never responded to the points we put forward in all the past debates on the constitutional reform package, Albert. You have never responded properly to any single point of ours. You still have an opportunity to do so now. I have given you the book, right? You have never responded to any single point of ours. You have never responded to this improved constitutional reform package or our views on it either. You have never said anything on the reasons for your surrender, on the problem that the arrangements for the Chief Executive election and the roadmap for implementing universal suffrage are unable to meet the demands of the Alliance for Universal suffrage, or on the fact that only one of your four aspirations is answered. Why do you not make use of the 15 minutes of speaking time to give your response? You may still rebuke me while doing so. You may still accuse me of being irrational. It is all right for you to do so. But have you ever given me any response? You have not, right? I have all the justifications in black and white here. How come you have criticized me for lack of preparation? How come you have criticized me for lack of preparation? We have been participating fully throughout the debate in these three days.

CHAIRMAN (in Cantonese): Mr WONG, you have spent enough time on responding to Mr Albert HO's accusations. Please face the Chairman when you speak.

MR WONG YUK-MAN (in Cantonese): Chairman, people who understand me know that we are all honest people up to nothing underhand. We are always totally "up-front", right? You could actually refute my arguments. But instead of doing so, you chose to interpret my words out of context and make sweeping generalizations, thinking that your trick could succeed. Am I correct? Worse still, you even stepped up your emotive outburst as you went along, accusing me of saying electors were "blind fools". I am frankly very disappointed. I hope

that as advised by Mr Albert CHAN, you will respond to our arguments. When I talked about quantitative change leading to qualitative change, you rebuked me. But you did not understand how quantitative change can lead to qualitative change. You said that this super functional constituency, this improved package, represented a quantitative change which could lead to a qualitative change. How can I possibly fail to understand what you talked about? But the point is that we do not think quantitative change leading to qualitative change can really work. You then went on to say that you also had a theoretical basis and had done expositions. But you have not mentioned this until this very moment. You have not mentioned MARX until this very moment. You have not mentioned CAMUS until this very moment. Chairman, you have been very smart just now. I am likewise very interested in political philosophies. It so happens that I am reading a book on political philosophies these days. It is as thick as 600 pages. If you are so fond of having a debate, let us have one on another occasion. Chairman, you must not serve as the host in such a debate because you are also good at this subject. Please identify another person to serve as the host. In this way, you and I can have a contest in the debate, right? I have no problem with that. But today is not the occasion for such a debate.

What is more, you talked about the constitutional reform package, and your support for it. Regarding the improved package you have put forward, you talked about quantitative change leading to qualitative change, and then MARX, right? If you really want to talk about CAMUS, you may well provide all the relevant information in your documents or public expositions for others' reference. The speaking time of 15 minutes for each Member today is very precious. The Chairman is already staring at me, probably wanting to warn me against deviating from the subject of discussion again. Am I correct?

CHAIRMAN (in Cantonese): Please speak on the amendments.

MR WONG YUK-MAN (in Cantonese): He accused me of wronging Ms Emily LAU just now. But you did not allow us to play the relevant recording, right? From the recording, we heard the expression "preferably 10 nominations".

MR CHEUNG MAN-KWONG (in Cantonese): Preferably.

MR WONG YUK-MAN (in Cantonese): Yes, preferably. Preferably 10 nominations. How should we interpret this expression?

MR CHEUNG MAN-KWONG (in Cantonese): Can you tell us how?

MR WONG YUK-MAN (in Cantonese): How should we interpret "preferably 10 nominations"? Mr CHEUNG Man-kwong, tell us how, since you like interrupting others so much. Chairman, how should we interpret "preferably 10 nominations"? In that case Alright, when responding to my remarks just now, Mr Albert HO claimed that 15 nominations and 10 nominations were just He also said that there were actually no contradictions between what they said in the morning and the afternoon, and the only thing was that I did not know the meaning of "contradiction". How can they do anything like this? How can they say anything like this as a large political party? You do not give any specific Why do you not simply state clearly that both 10 nominations and 15 nominations are acceptable to you? In that case, it is not necessary to propose any amendments today. If you even find 15 nominations acceptable, why do you still propose any amendments today? You are simply wasting our time.

MR CHEUNG MAN-KWONG (in Cantonese): Preferably 10 nominations.

MR WONG YUK-MAN (in Cantonese): Right? Preferably 10 nominations? So, you want to move an amendment? I would say preferably five nominations, Mr CHEUNG Man-kwong. Do you agree? Never mind. I have plenty of time today. Why do you still want to propose any amendment? "Preferably 10 nominations"? You are only playing with words. It is now all about the question of ideologies. What is the point of continuing the argument? Am I correct? You still want to play with words. You are still arguing that you have only said "preferably" and not "necessarily". It is such a meaningless act. You are a large political party. You have sold electors down the river. You are shameless. Why are you not shameless? Have you ever responded to all the

queries about your political platform's reference to 2012? How can you call those words of mine a political platform? You have wronged others indiscriminately. Your words on 2012 are all very clear. Please give us an explanation!

Frankly speaking, I really admire Ms Emily LAU. She admitted that they had changed, and that she needed to apologize to her electors for that reason. But when she was asked again, she remarked that it was not necessary to tender any apology again. She explained that since they still had supporters, did it mean that she would have to tender another apology to their supporters? Well, you people can really say whatever you like, right? You can say whatever you like. Your influence is so very strong. You are the biggest political party in the democratic camp of Hong Kong. Buddies, you must do some self-examination, because you are not nonentities like us or people like us whom you dismiss as rascals. You have your supporters. Many people voted for you in the past. But why were you besieged when you took to the streets last year? You have not done any self-examination. You have only been putting up fallacious arguments, right? Those people who oppose you now used to be your supporters.

CHAIRMAN (in Cantonese): Mr WONG, if you continue to speak like this, I will have no alternative but to order you to stop. Please speak on the amendments under discussion.

MR WONG YUK-MAN (in Cantonese): Chairman, you now want to stop me. But what I have been saying is related to and also triggered by this question. When he criticized me just now, he accused me that yesterday, when I quoted what he said in the morning and in the afternoon, I described his words as contradictory. He argued that his remarks were not contradictory. Am I correct? He claimed that his references to 15 nominations and 10 nominations were not contradictory. I was only quoting what he had said, right? His explanation a moment ago was a complete mess. I do not know whether Members could really catch his point, right? My quotation of his remarks yesterday was very clear. I do not know whether you can understand his present reply on the distinction between 10 nominations and 15 nominations. He said on the one hand that this was preferable, but on the other, he claimed that he did not insist on a specific number, right? He said that the threshold should

preferably be set at 10 nominations, but if I quote him once again now, because in the last part just now I do not wish to quote Ms Emily LAU's remarks, let me tell you. When Mr Albert CHAN played the recording of the remarks concerned, you stopped him, right? The following is the content of the part he wanted to broadcast: "I once said that we did not want to see a very high threshold. The threshold should preferably be 10 nominations, so that all political parties can take part. I have said that I will step down to assume responsibility if the threshold mentioned in the document to be released two or three months later is much too high, to the extent that many people feel taken in, and only a handful of political parties can benefit." Let us see how you are going to interpret these remarks. Members can all hear these remarks very clearly. Let us see how you are going to interpret them. Tell me how we should interpret them! Now, you are saying that it is all right to have either 10 nominations or 15 nominations, right? Oh, even 20 nominations are all right. Secretary Stephen LAM, you really are so stupid. You should have proposed 20 nominations. Even 20 nominations are all right.

Their politicking has dragged them into such a state. I frankly do not want to shout myself hoarse and argue with them here. I have known Mr Albert HO for many years. Frankly speaking, as far as my personal feelings are concerned, I am extremely sorrowful that we have been dragged into such a situation today. All along, I have considered him quite a gentleman. Why is he as hysterical as me when he loses control? He simply does not talk about any justifications at all, right? He only wants to give vent to his emotions here, just like me. When I do so, I still have audiences. But he is not as eloquent as I am, and his gestures and facial expressions are not as histrionic as mine. When people see on television how I vent my anger here, they all feel very delighted. In contrast, when he does the same, nobody can understand what he is saying. It is very sad to see the situation deteriorate to such a state. When the chairman of such a big political party responds to our criticisms, he is surprisingly so desperate to such an extent

CHAIRMAN (in Cantonese): Mr WONG, you have spent too much time on discussing issues not related to these amendments.

MR WONG YUK-MAN (in Cantonese): 10 nominations are naturally better than 15 nominations. I am talking about 10 nominations. Ten nominations are of course better than 15 nominations, and five nominations are of course better than 10 nominations! Chairman, what is wrong with it? Why is the threshold not set at it? Why are nominations from five District Council members not considered sufficient? Are five nominations better than 10 nominations? Are 10 nominations better than 15 nominations? Are 15 nominations better than 20 nominations? You have been saying all sorts of things like these, right? But the point is that you have altered the entire system, and you have even plunged the development of democratic politics into such a situation. All of us who have been fighting for democracy are forced to a dead end by you. This is the key point. Have you ever responded to our points? Even if your talks about quantitative change leading to qualitative change are based on some sort of theories, I must still ask you whether you have ever explained to the public formally why you support this constitutional reform package, and why the support for such a package can bring about a quantitative change that leads to a qualitative change, thus making it possible for Hong Kong to head for genuine universal suffrage.

During the debates on constitutional reform, whether they were about the package for the Legislative Council or the package for the Chief Executive, I invariably gave detailed expositions. For the debate on each of the package, I wrote as many as 7 000 words. As for the Second Reading debate in these two days, I have also written an account of all my viewpoints. I have even prepared explanations of my views on every amendment. I have views to express on all of them. I do not want to go mad like now when incensed by you. In the past few days, how many Members belonging to the Democratic Party actually sat here to speak on each amendment? We want to hear your views as the chairman of a political party. But every time we spoke, all the eight Legislative Council Members belonging to your political party were not here. What kind of a debate is it? What kind of an exposition is it? Buddy, is it because you think there are two mad dogs here which can be disregarded all together? Buddy, you should not act like this. You should act like what you have done just now. Since you lashed out at me yesterday, I should respond to your remarks today, right? When you came to the end of your speech, your voice was shaking. I have always acted like this, but you are not. Towards the end of your speech, your voice was shaking. You even brought up the calling of electors as "blind fools"

and demanded an explanation from me. Buddy, when you said so, I knew that you had already run out of any cogent arguments.

CHAIRMAN (in Cantonese): Mr WONG, you are repeating your arguments.

MR WONG YUK-MAN (in Cantonese): No, my repetition does have a point here, Chairman. I want to tell others that a chairman of the Democratic Party can be so deplorably poor in debating and giving expositions. Frankly, this is greatly beyond all my imagination. I have known him for so many years, but I have never seen him so short of words. In the past, whenever he spoke, I would look at him in admiration, in the same way as how I am looking at you now. I used to look at him in admiration, buddy. But he has now plunged himself into such a state, thinking that he can criticize me in this way. Honestly speaking, when debating with you, I can still beat you even when my mouth is half-closed, so to speak. You are really pitiable. Well, when it comes to 10 nominations, you have only put forward this amendment as an embellishment, right? Nothing will happen if you have not put forward this amendment. If you have done so, why do you not propose five nominations? The reason is, of course, that you have reached an agreement with the Government on setting the threshold at 10 nominations to 20 nominations. As a result, you cannot propose five nominations, right? I want five nominations, so does everyone. Mr Frederick FUNG may even be able to put up two candidates in that case. But now, you propose to set the threshold at 15 nominations. This means that only two big political parties can participate in the election. Do you agree that this will be the case? This is precisely the worry of Ms Emily LAU at the very beginning. She was worried that the proposal in the document to be released would be to the sole advantage of some political parties, and that only two political parties would be able to participate in the election. *(The buzzer sounded)*

CHAIRMAN (in Cantonese): Mr WONG, your speaking time is up. Does any other Member wish to speak?

MR WONG YUK-MAN (in Cantonese): May I speak later on?

CHAIRMAN (in Cantonese): You may of course request to speak again later on. Does any other Member wish to speak?

MR ALBERT CHAN (in Cantonese): Chairman, I wish to add one point concerning the quantitative change and qualitative change mentioned by Mr Albert HO.

Chairman, over the past two decades or so, in the course of striving for any policy discussions or the implementation of any policies by the Government, the democratic camp has always adhered to one very important principle — upholding the people's right to know and participation.

Chairman, during the entire course of development of constitutional reform, especially after our launching of the "five geographical constituencies referendum", no one, except the handful of persons in the Democratic Party, was aware of their backroom political negotiations with the Central Authorities on the package that they say will bring forth a quantitative change capable of leading to a qualitative change.

I can remember very clearly that when the campaign on "five geographical constituencies referendum" was underway, I personally talked with Mr Albert HO over the phone for at least two times, inviting him to conduct publicity for us. He never refused. I then made appointments with him through his secretary, but he did not show up. We did not know until a later time that he had already promised the Central Authorities not to support and participate in the "five geographical constituencies referendum" in exchange for this arrangement to have negotiations with the Central Authorities. This was already a betrayal of us. But as I have repeatedly mentioned, I am used to being betrayed by others.

However, the people's right to know is of very great importance. The Democratic Party may accept that this package represents a quantitative change which will lead to a qualitative change, and the Democratic Party may of course analyse the situation in this way and hold such a position. However, do the people agree with it? Do they have any views on quantitative change and

qualitative change? The people must have the right to know. If the Democratic Party still thinks that it belongs to the democratic camp; if it still attaches any importance to the people's right to know — just a few days ago, during the debate on certain policies, Mr LEE Wing-tat still criticized the Government for failing to consider the people's right to participate in discussions — then why are the people barred from participating in the discussions on this so-called new package which involves quantitative change and qualitative change? Mr Albert HO is the chairman of the Democratic Party, so I wish to ask him to give an explanation. Has his political party already abandoned its fundamental position and conviction that the people should have the right to participate in policy formulation? When it comes to such a major decision involving the cause of democracy that you have been fighting for over several decades, why have you completely abandoned your electors, kept them in utter darkness, made such a clandestine decision, and announced the outcome only after all the backroom politics? Mr Albert HO, why have the people been deprived of their right to participate?

CHAIRMAN (in Cantonese): Mr CHAN, your remarks now are irrelevant to the amendments under discussion.

MR ALBERT CHAN (in Cantonese): Chairman, why are the people deprived of their right to participate in discussions on whether the threshold should be 10 nominations or 15 nominations? Chairman, my remarks are relevant to whether the threshold should be 10 nominations or 15 nominations.

Whether this system should be expanded or down-sized, whether a new functional constituency (FC) should be created, whether the newly created FC involves quantitative change or qualitative change, and whether the proposed threshold of 10 or 15 nominations is a quantitative change or a qualitative change are all issues that can be discussed. As pointed out by Mr WONG Yuk-man, a threshold of five nominations will meet the requirement of the quantitative change he mentioned. But if the threshold is raised to 15 nominations, it will no longer be a quantitative change. When the threshold is raised to 15 nominations, the two major political parties will have total domination. As I pointed out when I spoke for the first time, small political parties will all be excluded, and the

people will lose the right to genuine participation in the election. Then it is no longer a quantitative change, right? This, together with the adverse impacts I mentioned just now, and the stifling of the overall development of democracy, is no quantitative change. Rather, it will only further uglify the system, ending up in the stagnancy of democratic development.

Chairman, I really hope that Mr Albert HO can give an explanation later on. Regarding the system based on quantitative change and qualitative change as well as whether the threshold should be 10 nominations, 15 nominations or 20 nominations, why have the people never been consulted? Why has the Democratic Party concealed all the facts? Why has the Democratic Party broken its promise and abandoned the cause of justice? Why has the Democratic Party deceived its electors? I hope Mr Albert HO can respond to all these accusations on behalf of the Democratic Party.

CHAIRMAN (in Cantonese): Dr Margaret NG, this is the second time you speak.

DR MARGARET NG (in Cantonese): Chairman, both Mr WONG Yuk-man and Mr Albert HO are very studious. I admire them very much. I think that as a Member, apart from following the observations of the mass media or the latest discussions in this Council, one must at the same time equip oneself with the required knowledge. I therefore admire both of them very much.

According to the Rules of Procedure, Members are permitted to speak more than once in the Committee of the whole Council, so that they can have sufficient opportunities for discussions. I think this provision can uphold freedom of expression and enable us to express and reflect our views thoroughly in the course of policy discussions. This is a desirable rule. However, the Rules of Procedure may at times make it impossible for us to end a debate despite the repeated presentations of views. This debate has dragged on for a very long time, and I must admit that I am very keen on listening to the views expressed. However, I wish to put forward a request for the consideration of Members on both sides: Let us end the debate on these amendments today, and conduct a debate on another occasion. This is indeed a very bad Bill. But now that we have reached this stage, we can no longer prevent this Bill from going through

debates and passing through Third Reading. I hope that Members can state their positions as quickly as possible, so that we can bring an end to this disaster and usher in a new stage in the movement. I hope Members can heed my humble request. Thank you.

CHAIRMAN (in Cantonese): Many thanks to Dr Margaret NG for offering this advice.

Dr NG was right in pointing out that according to the Rules of Procedure, Members may speak more than once in the Committee of the whole Council. However, it is also provided in the Rules of Procedure that a Member may speak up to 15 minutes only every time he or she speaks.

Members are reminded that if Mr LEUNG Kwok-hung was indeed right in saying that our original intent is to permit Members to speak for an unlimited number of times, or to cut a long speech into 15-minute chunks for delivery at different times, then it would not have been necessary to set the time limit of 15 minutes in the very first place.

The purpose of our setting this time limit and permitting Members to speak more than once, as rightly pointed out by Dr Margaret NG just now, is to facilitate the interaction among Members during the discussions on the relevant clauses and amendments. In case a Member who has spoken finds it necessary to respond to the different views put forward by other Members, he should be given opportunities to make appropriate responses. But this does not mean that Members are encouraged to prepare a lengthy speech lasting as long as two hours and then divide it into eight chunks for delivery. Furthermore, it is not our wish to see any Member repeat his views by speaking more than once.

I have said earlier that in case any Member abuses the permission for him to speak more than once and seeks to attack each other for any issues not directly related to the subject of discussion, I shall not give my approval. Therefore, I ask Members to respect this rule. And, I also ask Members to seriously consider the proposal made by Dr Margaret NG just now.

Mr WONG Yuk-man, this is the third time you speak.

MR WONG YUK-MAN (in Cantonese): Chairman, it is all right with you since you are not in a hurry for any ball games. However, I do find Dr Margaret NG's proposal just now acceptable. Speaking of debating all such issues on another occasion, I suppose it will be fairer to ask Dr Margaret NG to act as the host. In this way, the Chairman will be able to take part, and I shall also be glad to participate. But such a debate, apart from inspiring our thoughts, will not possibly serve any significant purposes.

Why are Members so long-winded today? In my case, for example, I have spoken only twice on the amendments so far. This is the third time. Incidentally, I have not broken Mr Frederick FUNG's record, to speak less of Mr Paul TSE's. I do not mean to deride you, Chairman. Why are Members so long-winded? Well, if someone has enraged me, I must of course answer back. Similarly, if I have enraged anybody, he must likewise answer back. As far as Mr Albert HO is concerned, I was very pleased to see him sitting here when I spoke yesterday because it was the first time that I saw him sitting here when I spoke. I expected that he would definitely respond to my remarks today, so I was here as early as 8.30 am today. Do you know that? I was afraid that I might oversleep and thus miss his mockery of me. I have all along expected this. Do you see my point? I only want to explain to you that I have not done all this on purpose. I am admittedly not quite so well-behaved sometimes, but most of the time, I am also well-behaved, Chairman

CHAIRMAN (in Cantonese): Please be concise and avoid any repetition.

MR WONG YUK-MAN (in Cantonese): I am agreeable to Dr Margaret NG's advice just now. Members can indeed finish this matter more quickly. If Mr Albert HO is interested in having a debate, all will be very simple. We have written down all our queries of this system in black and white. We have also set out very clearly our views on his initial reference to quantitative change leading to qualitative change. We have likewise even written down very clearly our views on Mr CHEUNG Man-kwong's sophistry that the package will eventually bring forth a two-thirds majority for abolishing all functional constituencies. The only thing is that he has not bothered to read them. He accuses us of not reading the materials he has provided. Honestly speaking, we have read them all. Not only this, we have even written commentaries on specific chapters and

sentences of his materials. Buddy, I have been writing commentaries for 30 years, but they still dare to criticize me for lacking logic. However, I am not going to respond to this criticism of his. Anyway, I am very grateful to Dr Margaret NG for reminding me. Other Members are also very pleased to hear this. I will not speak any more on this topic. Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr Albert HO, this is the second time you speak.

MR ALBERT HO (in Cantonese): Chairman, I also agree that debates can be conducted on many other occasions for us to discuss theories and give expositions. However, there must be an atmosphere of mutual respect when we sit together. If one accuses others of betrayal or lack of integrity as soon as one starts speaking, it will be difficult to lay the foundation for discussion. But this may not matter so much. As long as truly rational discussions can still be held after all the chiding, there will be no problem.

I will not repeat my remarks just now, except for one point. I am thankful to Mr Albert CHAN for pointing out that CAMUS has not been dead for 100 years. He is right. It was just a slip of the tongue when I said earlier that CAMUS had been dead for 100 years. Actually, he passed away 50 years ago. In 2008, there was a grand celebration in France

(Other Members interrupted)

This is correct, and this record is correct. At the time of the 50th anniversary, there were many debates in the French academic circles. Members may do research in this respect if they are interested

(Other Members interrupted)

And, he is one of the philosophers I respect most deeply.

However, Chairman, I instead wish to say a few words on the stance of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). They have greatly disappointed me. The reason is that since they think they can

support both 10 nominations and 15 nominations as the threshold, why can they not be benevolent towards others and allow some political parties to participate? They are actually aware that the Liberal Party is supportive and will strive for nominations. On my part, I am happy to see the Liberal Party's participation, in very much the same way as I am happy to see the participation of more political parties belonging to the democratic camp. I naturally look forward to the participation of the Civic Party. I also hope that representatives of other organizations in the pan-democratic camp, such as the Hong Kong Confederation of Trade Unions and the Neighbourhood & Worker's Service Centre, can likewise take part. As far as nomination is concerned, we can come together for negotiations. The People Power has declared that it will not take part. There is nothing we can do, but it will be a good thing should they decide to participate. With the opportunities presented by this territory-wide election of such a large scale, we can engage in expositions. It does not matter even if it is just a farcical election. As Dr Margaret NG said, that vote was just a farcical one. But even so, it does not matter, and we may still participate. This is just like the case of the Chief Executive election, but it does not matter, and we can still participate all the same. Though the one elected may be criticized afterwards for being returned by a farcical election, it does not matter at all. The election is just a platform on which we can engage in expositions.

We will be happy to see full competition. I fail to see why the DAB should be so narrow-minded as to oppose this amendment. Indeed, if the DAB and the Hong Kong Federation of Trade Unions (FTU) are supportive, these amendments will be passed. It is because I firmly believe that from the perspective of having the practical benefit of participation, the Liberal Party will render its support, and so will the Economic Synergy, as it stands for a certain conviction. As for independent Members, such as Mr CHAN Kin-por and Mr Paul CHAN, they should also be supportive, for many independent District Council (DC) members may support their convictions. As long as they can obtain 10 nominations, they can run in the election, express their views to seek support and gauge their popularity in society. I think if they are prompted by a protectionist mindset to categorically disallow any lowering of the threshold, they will only show others that deep in their hearts, they only want to have the lists controlled entirely by the pro-establishment camp, so as to prevent any vote dilution. I am deeply disappointed that they are afraid to take on such a challenge, and I also think that they lack any courage. Honestly speaking, such

a large constituency will be very advantageous to them in the election, for they are backed up by the entire state machine. In our case, however, we will face difficulties, because huge funding will be required for such a large-scale election. But we can ill-afford any fear. If we allow ourselves to be scared by the thought that we may not even be able to raise \$2 million or \$3 million when the ceiling of election expenses is \$6 million, how can we face direct election in 2017? No matter how hard it is, we must still proceed. Even if we can only muster very limited resources for our participation in the election, we will have no alternative but to do our very best. Even if we must spend \$1 as though it were \$5, or \$10, we must still try hard. I hope the DAB and the FTU can be a bit fairer to others, because my only wish is the participation of representatives from more political parties and groupings, including those from the pro-establishment camp. This is the only point I want to add.

MR PAUL TSE (in Cantonese): Chairman, after hearing Mr Albert HO say "to be benevolent towards others" in his speech, I am prompted to reply immediately.

The Government has proposed a threshold of 15 nominations and the Democratic Party proposes a threshold of 10 now. Of course, we are not playing a hand game called "15 or 20" over a glass of wine. What we are discussing is whether the threshold should be 10 or 15 nominations. Actually, our main concern should be whether both 10 nominations and 15 nominations are reasonable as the threshold. If yes, I think we can only presume that when putting forward its amendment, the Democratic Party should have in mind some solid justifications which can prove that we should override the Government's likewise reasonable proposal.

In this connection, I am interested in hearing from the Democratic Party its rational basis and starting point in principle. These days, people are generally focusing only on the argument that a lower threshold can enable more people to participate or make the system more democratic. However, democratic is a word rather abstract in sense.

Chairman, there is no absolute threshold as such. On the one hand, we want to set a threshold to prevent the participation of too many unwanted trouble-makers; on the other, we also want to avoid an excessively high threshold,

lest many hopefuls with reasonable expectations may be barred from participation.

Chairman, let us take a look at this new design. This is a new design because there has never been any such experience in the history of Hong Kong. The only examples that can provide some sort of reference are what we call the traditional functional constituencies (FCs). And, the present threshold for these FCs is set at 10 nominations. However, the numbers of electors in the various traditional FCs or functional sectors range from some 100 to almost 10 000. If we look at the percentage represented by this threshold of 10 nominations, we will see that the percentage associated with the proposed threshold for the District Council (second) FC is neither the highest nor the lowest. It is around 3.4% in the middle. This is understandable and acceptable.

Chairman, I believe Members will agree that whenever we talk about the design of any electoral system, everybody will have in mind a secret hope of making the design as advantageous as possible to themselves. However, sometimes, everybody is just as vulnerable to any design, and one simply cannot know at what time one's preferred design may backfire and hurt oneself. Therefore, we should look at the matter from a sensible perspective and refrain from over-emphasizing any politically partisan or personal interests as the starting point. The kind of attitude implicit in chairman Albert HO's remark that the Liberal Party, the Economic Synergy and other people would also wish to participate, I must say, should not be the kind of attitude we should desire. How can anyone wishing to run in an election, especially in an election for returning such important seats by so many electors, ever imagine that they are even unable to plead for only 15 nominations? If a person really finds himself in such a miserable situation, he should never have contemplated running in the election in the very first place.

In my view, regardless of whether or not their political parties hold enough DC seats, all those wishing to run in the election should still show the level of commitment, confidence and determination required for obtaining enough nominations. Otherwise, it will be meaningless for them to press on with their candidature. Therefore, I think that the numbers of DC seats held by political parties should not be put on the table for discussion and treated as a major ground of pushing forward the amendment.

I am sorry for having to state point-blank that I really do not want Members to dwell any further on whether the threshold should be set at 15 or 10 nominations. After all, even the political party proposing the amendment has already pointed out that the thresholds of 15 or 10 nominations are both acceptable and reasonable. Why should we waste any more time in that case?

Let us put aside all the earlier discussions on the principles of democracy, because they are nothing but mere empty talks. In fact, if the arrangement concerned is reasonable and acceptable, the principle of "benefit of doubt" (adopted by the Court) should be applied. As the threshold of 15 nominations proposed by the Government is not downright wrong, nor is it in contravention of any good sense, principles and past experience, I would think that before any practical experience is available; before we are able to clarify what is meant by "too high" or "too low", it is only reasonable for us to steer the middle course. This is an acceptable approach. Therefore, I will support the threshold of 15 nominations as originally proposed and vote against the amendment.

MR TAM YIU-CHUNG (in Cantonese): From 9 pm to 10 pm yesterday and from 9 am to 10 am today, we heard only salvos. Mr WONG Yuk-man spoke like a firing machine-gun while Mr Albert HO put up desperate resistance. They fought against each other like mad as we listened on. Later, Dr Margaret NG stepped in, trying to settle their argument, and I also hoped that it could come to a close earlier. To our surprise, Mr Albert HO suddenly shifted the focus and shot at the Democratic Alliance for the Betterment and Progress of Hong Kong. In fact, he should not have done so. Just now, we even fetched him some materials and information, so that he could debate with Mr WONG Yuk-man. Surprisingly, he turned around to shoot at us. What for? He really asked for trouble.

Honestly, we do pity him for being reproached by Mr WONG Yuk-man in this way because we think he has made the right change. We frequently refer to the need for gradual and orderly progress, and he talks about quantitative change leading to qualitative change. But these two concepts are identical. We agree that he has done something good this time around, so when he was hurled insults, we all felt deep sympathy for him. Of course, despite our sympathy, we did not go so far as to offer him any assistance, for we did not want to be dragged into any disputes within the pan-democratic camp. If we had dragged ourselves into the matter, the meeting would have turned even more protracted. Mr WONG said that some Members were only concerned about their ball game schedules.

But this is not the case. Many Members must attend to other business commitments. Some wanted to go to Beijing earlier, so that they could listen to the National 12th Five-year Plan and see how to participate in the relevant discussions.

As for why we do not support lowering the threshold to 10 nominations, actually, when we first learnt of what is commonly known as the "super DC" seats put forth in the "one-person-two-votes" proposal, we immediately considered the whole thing as a functional constituency, so there must be certain nomination requirements. Numerically, we said that any number between 10 and 20 would be acceptable. Subsequently, the Government steered the middle course and set the threshold at 15 nominations. We think that it is reasonable to choose 15 nominations because 15 is midway between 10 and 20. We will not dwell on the details any more to avoid repetitions. As Mr Paul TSE said just now, there should be a reasonable number anyway. As a reasonable number has now been set, let us all go by it. Why bargain anymore? We are not buying vegetables in a market, are we?

What is more, as there are some 400 DC members, how can anyone even fail to obtain 15 nominations? Those who talk about being benevolent towards others should do so by acting as nominators. As many as 60 or so elected DC members are members of the Democratic Party, so they should really help others. If Mr WONG Yuk-man's People Power needs any nomination assistance, the Democratic Party should help him; if the League of Social Democrats needs any assistance, the Democratic Party should help it; and if Mr Frederick FUNG needs any assistance, the Democratic Party should help him. Not only in the case of nomination, they may even give these people their votes. They should see no problem with this, because they have been talking so much about being benevolent towards others. Therefore, do not accuse us of being narrow-minded, adopting a protectionist mindset, lacking courage and being scared. Do not ever use any such offensive words. Everyone should make his own choice.

All this is my advice. I do not want to dwell on this matter any further, so I have finished what I want to say in just three minutes. I do not need 15 minutes. I will keep my mouth shut if I have nothing further to say.

DR PRISCILLA LEUNG (in Cantonese): Chairman, I listened to all the speeches in the debate last night, and I have also been very attentive all this morning.

The speeches delivered last night by Mr LEE Wing-tat and Mr CHEUNG Man-kwong in support of this constitutional reform package sounded familiar to me because I can vaguely remember having a public debate back in 2005 with Mr LEE Wing-tat on the "trilogy" we put forward. Today, I have heard their sincere acceptance of the fact that democracy in Hong Kong should be achieved step by step, that in the process, we must face up to many significant political realities and a system left over by history, and that we really need a compromise package as a result. Therefore, I have made it clear that while we support this present package, I do not find it entirely satisfactory. In regard to the step of "one person, two votes" we set out in our "trilogy" proposal, I am honestly a bit surprised to see that it is to be implemented with the addition of a "super DC FC". In theory, I would think, we should instead proceed in a smoother manner, reform the FCs and then ultimately achieve universal suffrage.

However, the political reality is that it is necessary to secure 40 votes in the Legislative Council today. Therefore, with the sincere intention of preventing Hong Kong from being plunged into a political situation identical to that in 2005, we agree to accept this present package. However, the academics who put forward the "trilogy" proposal back then telephoned me last night and asked me to make a record in history to the effect that we do not favour this package very much because we fear that the DCs in Hong Kong may turn highly politicized in the future, and that the Legislative Council may become excessively like a DC. They hope I can raise this point and explain it clearly here for record purpose.

Second, with respect to today's discussion on whether the threshold should be 10 or 15 nominations, I do have a clear viewpoint: We are inclined to support a threshold of 15 nominations. When I competed in the election in the Kowloon West constituency in 2008, there were altogether 13 candidates in the constituency. In fact, it was quite easy to run in that election, because with just about \$50,000, a candidate could already conduct a publicity campaign covering the entire constituency. In the future, publicity campaigns will have to be conducted in a large territory-wide constituency, but it will likewise be easy for candidates to participate. We have computed the quotients of 400 divided

respectively by 10 and 15. We think that it will be very chaotic if there are as many as 40 or some 30 candidates. And, we must also bear in mind that this will be the first time for Hong Kong people to select five candidates in a territory-wide constituency. In fact, there were some new faces in the Kowloon West election back then, and although some of the candidates were already quite well-known to the public, the situation was still not satisfactory. In times of direct election, the public will find such a situation very chaotic. If up to 40 or so candidates conduct their publicity campaigns all at the same time, my only feeling is that there are just too many candidates.

Therefore, our consideration is definitely not based on the perspectives of any political parties. Based on our conviction, we agree to setting the threshold at 15 nominations. The reason is that when there is a surfeit of candidates, the public will grow tired of all the electioneering debates, media coverage and pamphlets. Therefore, I hope that a focus and a reasonable threshold can be set, so that in the future, especially when we conduct the first election with a large territory-wide constituency, the quality of election can be higher and more serious-minded candidates will come forward for participation in the debates as a result of the threshold. To sum up, we have never considered the standpoints of any political parties throughout. In my view, the most important thing is that it already suffices as long as any persons consider themselves having the quality and capability to participate in this election with a large territory-wide constituency. Therefore, I support the setting of the threshold at 15 nominations.

Thank you, Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Chairman, the subject for the current debate session today is the issue of the nomination threshold. First of all, let me reiterate the basic stance I expressed in this Chamber when the 2012 constitutional reform package was discussed in June last year, and I quote, "As regards the nomination threshold, we

have, for quite some time, heard some views suggesting that nominations be made by 10 to 20 elected DC members. We will, of course, respect the views put forth by different political parties/groupings and Members to facilitate the formulation of proposals on local legislation." This is the basic stance I put forward on 23 June last year.

On the basis of the stance expressed, as well as the views further received from Members and various political parties/groupings last summer, our final proposal is to adopt 15 elected DC members as the nomination threshold and we consider this a reasonable suggestion. Not only will large political parties/groupings be able to secure the number of nominations required, it will also be possible for small political parties/groupings and independent candidates to join together and form a list of candidates to participate in this election. According to the design of this election, 3.2 million electors from all over the territory will be invited to vote for the candidate or the list of candidates they support, thus a mere nomination by 15 elected DC members will not be enough. For anyone who wants to participate in this election, support networks have to be built up and "election partners" have to be identified in all of the 18 districts in the territory, and volunteers have to be recruited also for conducting door-to-door visits and canvassing votes in order to have a greater chance of winning. Therefore, we consider the proposed nomination threshold of 15 both practical and reasonable.

Under the amendment moved by Dr Margaret NG, it is proposed that the nomination right be extended to all persons who are eligible to vote at DC elections. In other words, the number of eligible nominators will be increased to include 3.43 million registered electors, which is contrary to the stance we expressed last year. I have repeated yesterday the position expressed by the Secretary for Justice on behalf of the SAR Government and that is, it is our intention to have the candidates for this election be nominated by elected DC members so as to retain the salient feature of a functional constituency election for the five new DC seats.

Chairman, one of the amendments discussed today is proposed by Ms Emily LAU and this reminds me of a scene during the debate on the 2012 constitutional reform package in the Legislative Council in June last year, in which Ms Emily LAU was greeted with cheering and applause when she was passing through a group of supporters of the pro-establishment camp, signifying

their support for her position. In my opinion, the incident actually reflects that there are no permanent enemies in politics, only permanent objectives. As far as constitutional development and the promotion of political changes in Hong Kong are concerned, the permanent objective is to achieve universal suffrage in accordance with the Basic Law.

Chairman, I have paid attention to the views expressed by different political parties/groupings and Members in the past four days. Generally speaking, the timetable for universal suffrage worked out in accordance with the Basic Law is acceptable to most of the Members. According to the timetable, in 2017, the Chief Executive can be returned by universal suffrage and then in 2020, all Members of the Legislative Council can be returned by universal suffrage. Such being the case, when discussing further on the issue, I hope Members will focus their attention no more on the question of "when" but on the question of "how", not on the timetable but on the arrangements for achieving universal suffrage. It is crystal clear that our most fundamental principle is to have universal and equal suffrage in Hong Kong in accordance with the Basic Law. Therefore, I earnestly appeal for Members' support for the passage of the Bill today, and sincerely wish that from this day onwards, we will be able to work together to prepare for the four elections to be held in 2011 and 2012. Members are also most welcome to actively participate in such elections. In the next five years, let us strive together for further democratization for the Legislative Council election in 2016 and implementation of universal suffrage for the Chief Executive election in 2017.

I so submit, Chairman.

DR MARGARET NG (in Cantonese): Chairman, let me first respond to the last part of the Secretary's speech. He pointed out that most Members accepted that universal suffrage should be achieved within the framework of the Basic Law, and that the issue to be dealt with was not "when" but "how". Chairman, honestly speaking, in each and every debate, we will inevitably base our discussions on certain presuppositions, that is, those areas where we think there is already an agreement or consensus, one example being definitions. If we suddenly realize in the middle of the debate that the bases are not quite like what we have imagined all along, very great confusion will result. It will then be necessary to start afresh, and both sides will lose trust in each another.

Therefore, I think the issue to be dealt with now is neither "when" nor "how". We used to have no doubt about the definition of universal suffrage, thinking that universal suffrage should simply mean the complete disappearance of functional constituencies (FCs). But as our discussions went on and on, in 2006, the National People's Congress suddenly gave an interpretation of the Basic Law and told us, to our surprise, that universal suffrage could exist side by side with FCs. In this way, the definition of universal suffrage has been turned into an issue that causes a lot of anxieties among all of us. Today, the situation is compounded by yet another issue. We used to think that electoral right is electoral right. We thought that electoral right should be the embodiment of the rights to stand for election, cast votes and be elected. However, it has turned out that these rights are not regarded as a single entity. Rather, it is said that they are three separate rights. As a result, we have been forced to turn back regarding some fundamental issues. Chairman, I really do not wish to see the Government employ such tricks over and over again.

Chairman, I want to respond to the advice given to me by Mr LEUNG Kwok-hung in the debate earlier on. I said I would have two votes, but the vote regarding the District Council (second) FC would be a farcical one. Mr LEUNG Kwok-hung, however, said that the vote was not farcical, and that a vote was a vote. I agree to his correction. In fact, the vote concerned is not a farcical one; rather, it should be a defective vote, because it cannot allow one to really exercise one's electoral right. It is a vote that deprives us of two-thirds of our electoral right.

Chairman, I wish to talk about the difference between Ms Emily LAU's amendment and mine. Chairman, just now, many Members argued over the level of the threshold. Is a threshold of 15 nominations too high? Should the threshold be 10 nominations? Is a threshold of 10 nominations the better option, the best option, or simply a "must"? There have been many debates on these questions, but honestly, the question should not be about whether the threshold is high or low. Rather, it should be about whether any threshold should be set in the very first place. Nomination should basically be a mere procedure. Therefore, Article 26 of the Basic Law, which I read aloud yesterday, and the International Covenant on Human Rights both point out that people shall have the right to vote and the right to stand for election. Chairman, nomination should basically be a mere procedure and should not be turned into a threshold by us. Likewise, the nomination of candidates for the Chief Executive election should not be turned into a threshold or checkpoint either. Therefore, the greatest

defect in the Government's proposed package is the creation of a threshold. Chairman, this is precisely the reason for the Civic Party's proposed amendment on combining the three rights into one single entity. However, Chairman, even if I disregard the issue of combining the three rights, I would still say that it is too much to ask for 10 nominations.

However, Chairman, as you said at the beginning of this debate, regardless of whether or not Ms Emily LAU's amendment is passed, Dr Margaret NG may still move her amendment. Therefore, purely from the perspective of the wording or contents of the amendments, there should be no conflicts. My amendment will of course achieve more extensive effects than Ms Emily LAU's. If my amendment is passed, even if Ms Emily LAU proposes a threshold of 10, 15 or even 100 nominations, I do not think there should be any obstacles to anyone intending to run in the election.

Chairman, however, we will support Ms Emily LAU's amendment, much as we supported Mr WONG Kwok-kin's amendment, because after all, the restrictions proposed by the Government will be reduced a little bit. Chairman, therefore, we will support Ms Emily LAU's amendment later, but we have to make it clear that the setting of this threshold is unwarranted and against all the universal perceptions of electoral right. Therefore, I hope Members can support my amendment after supporting Ms Emily LAU's amendment.

Thank you.

MS EMILY LAU (in Cantonese): Chairman, my proposal of lowering the threshold from 15 to 10 nominations, as I have said, is based on the intention of allowing more people to participate. I too accept that there must be a threshold for an election. In the case of the geographical constituency elections of our Legislative Council, 100 nominations are required. Without this number of nominations, no one can be successfully nominated.

Chairman, I already said a long time ago that what the authorities put forward was in compliance with what was discussed last year, so we were not at all surprised at that time. We only hope we can strive for something better. Chairman, the legislature is doing such things every day. We have to deal with many bills and other matters. We will not support anything that is not

satisfactory enough, but we will render our support when the opposite is the case. I therefore do not think there is any contradiction.

However, I want to add that the threshold should preferably be 10 nominations, although the range between 10 and 20 nominations can also meet the requirement. Chairman, September next year is fast approaching, and I believe that when the time arrives, we will be able to know how many teams want to run in the election. Assuming that 15 nominations are required, and since there are some 400 District Council members, it will be possible, as reckoned by Ms Cyd HO and I just now, to form several dozen teams, or 20 to 30 teams. However, some people who do not wish to see such a chaotic situation may exert their influence to make sure that the votes for their sides will not be shared out. Chairman, in such cases, all will depend on how people assess the situation.

The Secretary said that I waved at those people last year. He actually omitted to mention something. Frankly speaking, I always wave at any members of the public I come across, whether they are supporters of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) or whoever. Whenever any people wave at me in the streets, I will invariably wave at them in return. Naturally, if any members of the public hurl insults at me, I will simply walk away. Therefore, what happened last year was not unique. Chairman, in the course of our work, we always target objectively on the issues concerned rather than any specific individuals. The public may support the DAB, and they may support the Democratic Party. But when we chance upon each other in the streets, they are nonetheless very civil to us, so why should we not reciprocate their politeness?

Chairman, I observe that sometimes, even when I take a simple photo with you, some people would still be dissatisfied. Actually, it is all right. I will still take photos with you all the same, with others, with Ms Cyd HO, and with everyone. If any people are dissatisfied, just let them be so. Are there not many disgruntled people now? Never mind, Chairman. There may be no disgruntled people at the moment but some in the future, or some at present but none in the future. The only eternity is change itself. I want to say, however, that I have always had the habit of waving at people, only that if it had not been such a sensitive time, my waving at those people would not have caught any attention. Some people will always emerge to reproach me whenever it serves their purposes to do so. This is how the world is like. "Once we decide to eat salted fish, we will not grumble about the resultant thirst". I have no regrets whatsoever.

As evidenced by what I did last year, I am not without any inadequacies, for the Central Authorities subsequently revised its stance. When the Chief Executive announced that there was no room for any amendments and the resumption of Second Reading debate would be held in mid-June, everyone thought that it was the end of everything. But the Central Authorities subsequently changed its stance. Mr TAM Yiu-chung said just now that he very much pitied or sympathized with Mr Albert HO. We must thank him indeed. It is always very good for anyone to have a sympathetic heart. Likewise, we also sympathized with certain people last year, for they said they needed Beijing to dispatch people to offer them counselling. They did not understand why such a drastic change should have come about, why there must be such a total change. Initially, however, it was said that there was no room for negotiation, so no negotiation whatsoever was allowed. But when powerful and influential people said things could be negotiated, negotiation had to be held. That was why these people all needed some kind of counselling. We likewise had sympathy for them in this regard.

Chairman, after the passage of this package, we will soon be able to see whether the domination by just one or two organizations will really emerge. There may not be as many as 20 lists, but let us see whether it will be possible for just two organizations to control all the lists. As we can see, our civic society is so vibrant and active. Some 100 000, 200 000 or 300 000 people may again flock to Central tomorrow, Chairman. So, how can any domination be possible next year? Nevertheless, I still wish to make one more point. I very much hope that more people will stand in the election next year. Let our fellow citizens prove everything. Like it or not, the two votes for each elector are for real.

MR FREDERICK FUNG (in Cantonese): Chairman, I also intend to speak.

CHAIRMAN (in Cantonese): Mr FUNG, you should know that the public officer and the two Members who have proposed their respective amendments have already spoken. I surely cannot stop you from speaking. However, the debate will have to continue after you speak, and I shall have to allow the two Members who have proposed their respective amendments to speak again.

MR FREDERICK FUNG (in Cantonese): Chairman, thank you for your indulgence. This is actually the first time that I speak on these amendments. I think that these several amendments, including those proposed by Mr WONG Kwok-kin, Dr Margaret NG and Emily, will have the effect of expanding the scope. I have always maintained that a large constituency is itself a form of constraint, because if one is to compete at all seriously in an election held in a large constituency, one will have to face considerable difficulties in terms of financial strength, popularity and resources. The more the constraints, the greater the difficulties will be. I therefore support these three amendments.

CHAIRMAN (in Cantonese): Dr Margaret NG, do you need to speak again?

DR MARGARET NG (in Cantonese): I do not need to speak again.

CHAIRMAN (in Cantonese): Ms Emily LAU, do you need to speak again?

(Ms Emily LAU indicated that she did not need to speak again)

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

(Members raised their hands)

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

(Members raised their hands)

Ms Emily LAU rose to claim a division.

CHAIRMAN (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Dr Joseph LEE and Mr Paul CHAN voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the amendment.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, seven were in favour of the amendment and 17 against it; while among the Members returned by geographical constituencies through direct elections, 23 were present, 13 were in favour of the amendment and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): Dr Margaret NG, you may now move your amendment.

DR MARGARET NG (in Cantonese): Chairman, I move the amendment to clause 43.

Proposed amendment

Clause 43 (See Annex II)

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

(Members raised their hands)

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

(Members raised their hands)

Dr Margaret NG rose to claim a division.

CHAIRMAN (in Cantonese): Dr Margaret NG has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong and Dr Joseph LEE voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the amendment.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 25 were present, three were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 13 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 43 stands part of the Bill.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

LEGISLATIVE COUNCIL (AMENDMENT) BILL 2010

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

Legislative Council (Amendment) Bill 2010

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

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

Does any Member wish to speak?

DR MARGARET NG (in Cantonese): President, the Civic Party will vote against the Third Reading of the Bill. I will give a brief explanation.

According to some people, if we oppose this constitutional reform package, we should not have proposed any amendments in the very first place. They seem to think that once we have proposed amendments, we should vote for the Third Reading of the Bill. We do not agree to this point of view.

The Rules of Procedure provides that whether or not a motion for the Second Reading of a bill is agreed to, Members may still propose amendments, and whether or not such amendments are passed, Members may cast affirmative or negative votes on the Third Reading of the Bill. Some Members think that if we oppose a motion in principle, we must consider many factors when deciding whether any amendments should be proposed. The clearest example is the one

mentioned by Mr Frederick FUNG during the debate: If functional constituencies are really that bad, we should allow the public to see for themselves how bad they really are, and in this way, it will be easier to make changes to or abolish them in the future. He therefore does not agree that any changes should be made.

However, the Civic Party notes, and we want to tell the public, that the existing system is marked by various shortcomings. The Bill before us now, rather than rectifying these shortcomings, will instead aggravate them. Members of the public will surely ask what we can do and what actions can be taken. President, I believe that if we are still capable of doing anything at all, Members are all duty-bound to do so. This explains why the Civic Party has proposed so many amendments — because we believe that doing so is within Members' purview. When we are given the power, we are obligated to exercise it for the purpose of serving the public. Consequently, we have proposed so many amendments.

President, we will vote against the Third Reading of the Bill in the end. Frankly speaking, our attempt is doomed to failure. Nevertheless, I must make clear one point: We are fighting for democracy, and our failure or defeat in this battle will lay the foundation of our victory in the next one. President, we will continue with our endeavour and never despair. Thank you.

MR ANDREW CHENG (in Cantonese): President, I rise to speak because I wish to state concisely that I will oppose the Third Reading of the Bill. President, I did not speak during the Second Reading debate. As Mr TAM Yiu-chung said just now, Members kept criticizing and attacking one another last night and this morning. I too wanted to rise to speak at that time, but I knew that if I did so, a more protracted debate would be triggered.

President, I wish to say a few simple words to reveal how I feel about my stance of opposition. Honestly speaking, when I heard all the criticisms they levelled at my ex-party colleagues, my heart ached. I hope that the development of democracy We can all oppose this present Bill if we like, but I believe that the Government should have secured sufficient votes. No one has a crystal ball that can tell whether we can really implement genuine universal suffrage in

the future. Which approach is correct — the Democratic Party's support for the Government's constitutional reform package that year (I mean last year), or the insistence of Members like us on opposing the package? No one knows. However, the reality, the harsh reality, has already been put before our very eyes. This is the reality we must face up to. I think too much bickering will do no good to the development of positive energy in society as a whole.

I love to debate with Mr Albert CHAN or Mr WONG Yuk-man, but I have noticed that sometimes when a debate reaches a certain stage, I will lose control of my emotions. This is not only dangerous but also harmful to health. *(Laughter)* These days, I have not quite recovered from my flu, so I often speak with phlegm in my throat. Suppose my voice shakes or I cough up phlegm all of a sudden, he would say that I am no match for him as a debater. I honestly do not want this to happen.

PRESIDENT (in Cantonese): Mr CHENG, please speak on the Third Reading of the Bill.

MR ANDREW CHENG (in Cantonese): President, I am now going to speak on the main theme. I have only said these few words. I hope you can bear with me. I am sorry.

I hope that all my colleagues here, be they Members from the democratic camp, the Democratic Alliance for the Betterment and Progress of Hong Kong or other ruling coalitions Though they hold differing views, it does not matter so much. Hong Kong people's aspiration is actually the same as our slogan for tomorrow's demonstration — Hong Kong needs a future. Without a future, this Bill on the Legislative Council election will go nowhere. I will oppose the Bill today. In spite of my negative attitude towards the future, I still hope that friends in the democratic camp will not attack one another too much.

As for our relationship with other political parties, I must say I rarely debate with Mr LAU Kong-wah these days. For one thing, both of us are now over 50, so there is no point to get so upset all the time, right? But the question is that debates are after all meant for us to clarify points and uncover things, and that to a certain degree, a person really needs to feel some sort of righteous

indignation and adhere to some principles when necessary. Today, therefore, I will likewise hold fast to this principle of mine. I hope that what I observe, what I dream of, and what I hold fast to Honestly, in a way, I just want to check whether I am wrong. I hope that democratization in Hong Kong, or the process of democratization led by my friends in the Democratic Party, can have real prospects. Nevertheless, I will hold fast to my convictions and cast a negative vote today. Thank you, President.

MR FREDERICK FUNG (in Cantonese): President, constitutional reform is a gigantic project. The ultimate goal of constitutional reform is to achieve dual universal suffrage, that is, dual universal suffrage for returning the Chief Executive and all Members of the Legislative Council. However, if we are to attain this goal, we must not brush aside the Basic Law. Surely, we do not necessarily agree to many provisions of the Basic Law, but before they are amended or caused to be amended by us, we must still seek to achieve dual universal suffrage in accordance with the conditions and requirements stipulated in the provisions of the Basic Law. I have said many times that in order to implement dual universal suffrage, we need the Central Government, the Chief Executive and the Legislative Council to give the green light all at the same time. The attainment of this goal must depend on the various forces in society and the mechanism I just mentioned. The various political forces must counterbalance one another and seek co-ordination along the way. Everybody must be prepared to go forward for the attainment of the goal; otherwise, everything will come to a halt.

Well, if people are familiar with the history of how the Hong Kong Association for Democracy and People's Livelihood (ADPL) has been striving for dual universal suffrage, they will know that years ago, the ADPL actually asked for the implementation of dual universal suffrage in 1997

PRESIDENT (in Cantonese): I do not think that this is the time for discussing the history of the ADPL.

MR FREDERICK FUNG (in Cantonese): I am talking about my voting position.

PRESIDENT (in Cantonese): We are not conducting a Second Reading debate. Please be concise and indicate your voting intention.

MR FREDERICK FUNG (in Cantonese): All right. I am just trying to comment on the attitude of colleagues when presenting their speeches just now, and I am talking about my attitude towards the voting today. In the hope of forging a consensus, we negotiated with the democratic camp and worked out the "190" package. The ADPL was prepared to make concessions. We were of the view that if all political forces simply stuck unyieldingly to their respective positions and insisted on the prevalence of their own views, the results would be the impossibility of any headway and total stagnation. In the hope of moving forward for attaining dual universal suffrage, we have been adopting the stance of fighting for every single inch as well as making every inch or step of progress within our capacity. The important point is that every single step or inch of progress must be in the direction of achieving dual universal suffrage. Therefore, we call the approach we have adopted over the years "negotiation coupled with fight". For this reason, we were the first political party which was willing to join the parliamentary system. This was the case under British colonial rule, and this has still been the case since Hong Kong's return to the Motherland.

After all the discussions, we think that only very small progress has been made regarding both the Chief Executive election and the Legislative Council election. But this is after all better than no progress. We believe that as we go in the direction of fighting for every inch of progress, this is the consensus we must at least forge, so that the system can first take a step forward. Furthermore, we are also able to cherish an even greater hope now — the Standing Committee of the National People's Congress (NPCSC) has remarked that it is possible for the Chief Executive to be elected by universal suffrage in 2017. We do not simply dream or wish that this can come true; we even hope that this is already a reality, a reality brought about by the NPCSC's Decision. If this is already a reality and we are indeed proceeding in the direction of selecting the Chief Executive by universal suffrage in 2017, then although we are only able to achieve very small progress this time around, we can still look forward to the future, hoping that the Legislative Council, the Chief Executive and even the Central Government can allow the implementation of universal suffrage to come true in 2017. In the interim to 2017, we still need to hold discussions on one more electoral package for the Chief Executive election. We hope that while

this present step is only a small one, the next step can be a big stride, a big stride that leads to the election of the Chief Executive by universal suffrage.

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

MR PAUL TSE (in Cantonese): I rise to speak with the main intention of confirming that I will support the Third Reading of the Bill. However, since several Members have said they will oppose the Third Reading of the Bill, and they have also put forward their ideals and convictions on democracy, implying that those who support the Third Reading of the Bill are without any democratic convictions and principles, I must emphasize that we Members who support the Third Reading of the Bill also cherish principles, convictions and ideals. Genuine democracy as a goal should not be all about dual universal suffrage. Dual universal suffrage is only a process. Given "one country, two systems", Hong Kong cannot talk about democracy. Hong Kong can only talk about democratization, that is, the optimum democratization of our existing system. I am referring to our existing system, our establishment.

The purpose of democratization is to preserve our existing values and the rights we currently enjoy as far as possible, including those relating to the rule of law, various freedoms, people's livelihood and the economy. We only intend to ensure as much as possible that these rights can be safeguarded under such a democratized system, with a view to maintaining the economic prosperity and stability of Hong Kong.

President, some colleagues may want to vote for the Third Reading of the Bill for pragmatic reasons, and some others may want to do so because they are visionary enough to see that given the present situation, Hong Kong needs to take a step forward. All of us have ideals, and democratization is the Polar Star, which tells us the direction. The star can be seen from all sides, but it is up to the individual to decide which path to tread. No single approach can be totally correct. I do not agree that we should so frequently underscore dual universal suffrage as the ultimate Polar Star. Actually, if we look at the democracies in the whole world, we will see that there is nothing like a model system, a standard milestone, and a standard soccer goal for us to aim at. We can only move in the direction of this ideal. Therefore, I hope that no colleague will think that casting a negative vote is the only and totally correct way, and the best way to show one's

commitment to principles and ideals. All of us are looking at this goal, only that our pace and perspectives differ.

All is just like throwing a party. It is only when our place is ready, when the kitchen, chefs, attendants, food, wine and water are all ready, that we may invite any guests over for a joyful celebration. However, if we invite people from all over the world to Hong Kong, to this community of ours, to our home, for a party before conditions are ripe, the party will only end up in a mess. Thank you, President.

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

(No Member indicated a wish to speak)

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

(The Secretary indicated that he did not need to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Legislative Council (Amendment) Bill 2010 be read the Third time and do pass. 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)

Dr Margaret NG rose to claim a division.

PRESIDENT (in Cantonese): Dr Margaret NG has claimed a division. The division bell will ring for three minutes.

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

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

Mr Albert HO, Dr Raymond HO, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Ms Emily LAU, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr LEE Wing-tat, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr KAM Nai-wai, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the motion.

Dr Margaret NG, Mr Andrew CHENG, Ms Audrey EU, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG and Miss Tanya CHAN voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 51 Members present, 43 were in favour of the motion and seven against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Legislative Council (Amendment) Bill 2010.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Motor Vehicle Idling (Fixed Penalty) Bill.

MOTOR VEHICLE IDLING (FIXED PENALTY) BILL**Resumption of debate on Second Reading which was moved on 28 April 2010**

PRESIDENT (in Cantonese): Ms Audrey EU, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's report.

MS AUDREY EU (in Cantonese): President, in my capacity as the Chairman of the Bills Committee on the Motor Vehicle Idling (Fixed Penalty) Bill (the Bills Committee), I submit the Bills Committee's report for the Legislative Council and brief on the major deliberations of the Bills Committee. The Bill seeks to prohibit idling vehicles, provide exemptions from the prohibition, impose a fixed penalty for contravention of the prohibition, provide for recovery of the fixed penalty and provide for incidental and related matters. It is proposed that, unless an exemption applies, a driver (who is the person in charge of, or assisting in the control of, a motor vehicle) should be prohibited from causing or permitting any internal combustion engine of a motor vehicle to operate while the vehicle is stationary. The idling prohibition applies to all motor vehicles on all roads, including private roads and any car parks if the motor vehicle has been idled for more than three minutes in any 60-minute period.

Under the fixed penalty system to enforce the idling prohibition, the proposed fixed penalty is \$320. The enforcement provisions of the Bill are primarily based on the enforcement provisions of the Fixed Penalty (Traffic Contraventions) Ordinance.

The Bills Committee held 13 meetings to scrutinize the Bill and gauge the views of members of the public and representatives of the relevant trades and groups. Two site visits to bus termini, public transport interchanges, taxi stands and minibus stands were conducted.

The Bills Committee in general is supportive of the policy intent of the Bill. However, members have expressed many views and great concerns about the exemption arrangements. Some members considered that the proposed control should not be over stringent or cause such undue nuisance to the trades concerned as to affect their normal operations. Although the Bill had included a number of exemption arrangements, members expressed concerns about whether the health of the driver and the passengers of a passenger vehicle could be adversely affected if its engine, hence, air-conditioning, has to be switched off while waiting on very hot days. Members also considered that the proposed constraints and enforcement criteria should be clear and objective to avoid enforcement difficulties. As such, the Bills Committee had examined whether there were justified needs to grant further exemptions to drivers in certain circumstances.

As to the taxi trade, after gauging views of members and the trade, the Administration expressed that considering its relatively short time required for boarding and alighting of passengers, while a number of taxi stands were located at open area, the potential environmental impact posed by idling taxis at taxi stands to the public might not be significant. The Administration subsequently agreed to amend the relevant provision to provide that the idling prohibition did not apply to a driver of a taxi that was at a taxi stand. As to drivers in a queue of taxis into a taxi stand, they would be covered by the exemption in section 1(a) of Schedule 1 of the Bill, which exempted drivers of vehicles that were stationary because of traffic conditions.

With regards to school private light buses (SPLBs), some members were concerned that as the Bill had not provided any specific exemption for drivers of SPLBs, escorts on SPLBs might arrange students to stay outside the SPLB while waiting for other students, and it would have safety implications. After considering views of members, the Administration agreed to add a new provision to Schedule 1 of the Bill to exempt a driver of an SPLB that has any passenger on board.

The Bills Committee was also concerned about the exemption arrangement on hot days and during heavy rain. Some members requested the granting of a blanket exemption from the idling prohibition to all drivers during hot months, such as from June to September or October. They particularly highlighted the fact that the ambient temperature inside a vehicle was much higher than the outside temperature, reaching as high as over 40°C on a hot day. Members urged the Administration to carefully assess the health impact of the idling

prohibition on professional drivers as they drove for long hours and the vehicle compartment was their workplace. Members urged the Administration to come up with concrete proposals to address the concerns raised by the transport trades targeting at very hot weather and heavy rain. The Administration subsequently proposed an exemption for all drivers at any time during a "Very Hot Weather Warning" or an amber, red or black "rainstorm warning signal" was in force, and the exemption would still be applicable at any time during the part of that day remaining after the warning signal ceased to be in force.

Furthermore, at the request of parents' associations of persons with disabilities, the Administration also proposed to exempt drivers of rehabuses under clause 6 of the Bill. Rehabilitation organizations may apply for exemption for drivers of rehabuses under clause 6, and the exemption would be granted once such applications were received and approved.

The Bills Committee had also examined whether there were justified needs to grant further exemptions to drivers and in different circumstances such as exempting all drivers from the idling, prohibition when the temperature or the ambient temperature inside the vehicle was more than 27°C, or in the hot months from July to October. However, the authorities considered that if exemption was granted when the temperature reached 27°C, the number of days on which the exemption would be granted may amount to half a year. Moreover, some of the days in the months from July to October were not very hot, and granting a blanket exemption on those days was not justifiable. Regarding the proposed exemption when the ambient temperature inside the vehicle was more than 27°C, the Administration considered that the exemption would lead to enforcement difficulties as disputes between drivers and law enforcement agents would likely arise from determining the ambient temperature inside a vehicle.

Some members considered that the exemption of a three-in-sixty-minute grace period applicable to all drivers might be too short to cater for practical needs in real-life situations. Some members requested for a longer grace period, and some requested for further exemptions on rainy days. The Administration responded that grace period as well as an extensive list of exemptions in the Bill should serve the general driving needs of all drivers. The authorities also pointed out that as there were more rainy days in Hong Kong, for example, there were as many as 210 days in 2009, it would defeat the objective of the Bill if further exemptions during rainy days were provided.

The Bills Committee noted that clause 6 of the Bill provided that the Director of Environmental Protection (the Director) might exempt a driver or class of drivers from complying with the idling prohibition. Nevertheless, it was subject to any conditions he or she thought fit. Members queried the reasons for giving the Director such power and the factors which the Director would consider in exercising the power. To address members' concern, the Administration agreed to move the amendments to provide that the Director might grant the exemption only if he or she was satisfied that exceptional circumstances exist that make it impractical or unreasonable for compliance with the proposed idling prohibition.

Members of the Bills Committee were very much concerned that the idling prohibition might pose adverse health impact to professional drivers on hot days, and had discussed with the Labour Department the risk of diseases that might be posed to professional drivers. To address members' concerns, the Labour Department undertook that it would follow up with the relevant transport trades on the applicability of the existing guidelines concerning heat stroke at work, after the exemptions to be provided by the Bill were finalized by the Environment Bureau.

As to matching transport facilities and arrangements to promote the implementation of the Bill, members urged the Administration to expedite the provision of covers or planting of trees at public transport stands to provide shelter to queuing vehicles with engines switched off. Members were also concerned whether all the exemption arrangements applicable to taxi and minibus stands would also be applicable to informal taxi/minibus stands. To address members' concerns, the Transport Department would consider and follow up proposals for designation of taxi/red minibuses stands received by taking account of their actual traffic impact. The Bills Committee noted that the Hong Kong Productivity Council was developing a retrofit device to enable the operation of air-conditioning system by battery when the engine was switched off. Members hoped that the retrofit device would be made available for use before the Bill came into operation. The Bills Committee had referred the matter to the Panel on Environmental Affairs and the Panel on Transport to follow up.

In response to the concerns of the Bills Committee, the Administration will propose a number of Committee stage amendments and the Bills Committee has no objection to these amendments.

President, I will now speak on behalf of the Civic Party. I know that this Bill on idling prohibition, which has commonly known as "banning idling vehicles with running engines", has caused great controversy. For example, many green groups are extremely concerned as the Bill seems to have gone through a "strip-off" process described by Secretary Matthew CHEUNG, because many people have proposed various exemptions. The present Bill, after the addition of the amendments proposed later on, may have as many as some 20 exemptions. Environmentalists consider this defeating the original purpose of the Bill, making it a piece of fragmented legislation exist in name only.

On the other hand, some other people have put forward their views to the Bills Committee, saying that in fact they have all along switched off idling engines, but that once the authorities legislate on this practice, it will in fact prohibit some situations where switching off the idling engine is unnecessary. But drivers can easily avoid the restrictions of this legislation as long as they do not stop their vehicles and keep circling on the road. However, the resulting pollution caused by the emission of their vehicles will be much more serious. They consider that this legislation will cause a lot of inconveniences to people who have health problems, as well as motorists and other road users. They consider that the effectiveness of emission reduction through enacting the law is rather minimal, at best no more than 1%, but we have to go to a lot of trouble to achieve it. Therefore, it would be better if we just veto the Bill.

Furthermore, some people, especially professional drivers who consider the vehicle compartment their workplace just like ordinary people working in the office, should be allowed to enjoy air-conditioning in their workplace. For this reason, the Government should develop the technology in this aspect as soon as possible, so that the air-conditioning system can keep on running after the engine is switched off. It will be all right to discuss idling prohibition when this technology reaches a mature stage. So, there is no need for an early discussion at present.

President, regarding all of the views mentioned above, my own view, which is also the Civic Party's view, is that first of all, we have to understand the purpose of this Bill is in fact not to reduce the total emission. As I said earlier, after the idling prohibition legislation is implemented, the total emission will only be slightly reduced by less than 1%. However, what is the effect of this

legislation? Very often, some drivers are very reluctant to turn off the engines when they have stopped their vehicles. They just sit in their vehicles to sleep and enjoy the air-conditioning, and they simply ignore the fact that their vehicles are emitting exhaust gas which causes great nuisance to those directly affected by the emissions near their vehicles, such as hawkers, people in shops, passers-by or waiting commuters. This legislation will play a bigger part in this respect.

Before this piece of legislation is passed, one can see from many television advertisements that law enforcement agents or the general public would tap the window of the vehicle concerned when they run into such a situation and advise the driver to switch off the engine. However, this is purely of advisory nature, the person concerned may refuse to do so, and sometimes this may even lead to disputes. However, after this piece of legislation is passed, the aforementioned people may tell the driver that as the legislation is passed, it is an offence if the engine is not switched off after the vehicle has been idled for more than three minutes, and they may then ask the driver to switch off the engine. This legislation provides a basis and a very important foundation to enable the people to abide by the law, so that we are not just staying at the stage of voluntary action or giving advice. Everybody will know that a piece of law is enacted and a standard is put in place requiring everybody to switch off the engine after the vehicle has been idled for more than three minutes. Otherwise, the person commits an offence.

On the other hand, this also enables us to nurture a good habit and culture. Although there is only slight improvement in environmental protection, our habits and culture can be improved. Some colleagues often say, "Do not fail to do good even if it is small". Therefore, even if the effect of emission reduction is minimal, we should support the Government to enact this piece of legislation. However, I wish to mention in passing that some people may ask why we do not apply the same rationale to the issue of constitutional reform because a progress of an inch is always better than no progress. Then why do we prefer a standstill? Actually these are two different matters and it is necessary for me to clarify. The question of constitutional reform concerns the creation of five additional functional constituency (FC) seats, but there were no such super FC seats before. If we wish to achieve transition to universal suffrage, the creation of more FC seats is just running counter to the purpose. It is heading towards a wrong direction. Therefore, the creation of additional FC seats cannot be considered a small good deed, and we must oppose it. On the other hand,

although idling prohibition cannot achieve much effect in environmental protection or emission reduction, at least it can improve the situation directly affected by vehicular emission, so we consider that it is worthy of our support.

In addition, the discussion about legislating for idling prohibition has been going on for 10 years. Under the circumstances that the Government is frequently or increasingly "lame", actually, we should tender support as far as possible for the Government while we can, as long as the direction or the purpose is correct. Therefore, while many people criticize that the Bill would cause difficulties for law enforcement, my response is rather simple and that is, it is very likely that any piece of legislation will cause disputes or difficulties for law enforcement. And we can never make any change if we opt not to legislate on such grounds.

Let me cite the best example, which is the smoking ban. When we discussed the smoking ban, a lot of people worried likewise about the great difficulties in law enforcement. Now that even though the legislation has already been passed, we can still see a lot of people breaking the law, smoking on stairways, in restaurants, cafes, or parks. The only thing we can do is to make a complaint so that law-enforcement actions will be taken by the Government. This is because at least we have now the law to abide by, and the Government can take law-enforcement action. If it was in the past, no law could be abided by at all. Therefore, even if there are difficulties in law enforcement, and it may take some time to make adjustment and improvement, there is always a beginning for everything. This is why the Civic Party and I support the Bill before us now.

However, I still have a great regret. My regret is not about the number of exemptions made in the Bill, because as a matter of fact, such exemptions, to a certain extent, have gone through a long and thorough discussion by the Bills Committee. I believe that each has its own justification and a balance has been struck. Therefore, I am not feeling regretful because the Bill has undergone a "strip-off" process. President, much to my regret, the Government always seems to have high ambition but no real ability in emission reduction, as criticized by an article in today's newspapers. I think this is not only a question of having high ambition but no real ability, but a matter of constant overlooking the importance of prioritizing matters to be dealt with, and it seems that the Government can only deal with one or two things at a time. The Government should learn to adopt a multi-pronged approach, that is, a multi-tasking approach not only to look into more areas of interests, but also to deal with them in priority. Since the major

issue of air pollution is involved, can the Government step up its efforts to handle matters of higher importance? Just imagine that we have spent a total of 10 years in dealing with the work on legislating for idling prohibition. I certainly support this initiative, but the Government seems to give us the impression that it has already spent all its efforts on this matter, and it has no spare capacity to deal with other matters. This is exactly what I regret most.

Air pollution is actually a very serious problem. The Government should not only deal with one or two initiatives at a time. Instead, it should take an all-round approach to improve the environment in many different ways. And, it should put more effort into areas of better cost-effectiveness. I have often said inside and outside this legislature that concerning the most serious sources of roadside emission, any one can tell you that they are buses, old diesel vehicles and trucks. Can the Government take better care of this problem? I am not saying that the Government should not legislate for idling prohibition; I am not saying that I do not support this work, but can the Government deal with simultaneously or give priority to the most serious emission problem?

Therefore, although we are now discussing idling prohibition, there is also a need for me to mention one thing, such as the recently-announced Budget. I am disappointed that since the Government has such an immense reserve and surplus, in fact, it can expedite the elimination of old buses simply by making a small amount of allocation. The Government may also subsidize the cost of phasing out diesel vehicles, or even allow the conversion of 16-seat public light buses (PLBs) into long-wheelbase 20-seat PLBs. At present, among 3 000-odd green PLBs, only over 100 of them are long-wheelbase 16-seaters. If the Government approves the introduction of 20-seat long-wheelbase PLBs so that operators need not dismantle four seats and convert the area into a luggage compartment, and allows these PLBs to restore their original 20-seat setting as they leave the factory, then I believe all green PLBs will soon be replaced by their long-wheelbase counterparts. However, the Government simply refuses to do so. It is actually the responsibility of the Secretary for the Environment. So, I think that it is necessary to urge him to take the overall situation into account and make an effort to fight for us as to these matters when he is present here for the discussion on the idling prohibition.

The Civic Party has raised these issues to Financial Secretary John TSANG, in the hope that he can make good use of the huge reserve and surplus in

the Budget by making an investment in the local environment. I have particularly told Secretary Edward YAU that although I support his proposal on idling prohibition, I support him more to make more efforts in other bigger areas. I believe by doing so will obtain an obvious and instant result, get vigorous public support, achieve greater cost-effectiveness, and make better use of time.

For example, regarding the roadside air quality objectives long been drawn up as claimed by Secretary YAU, in fact, this is also an assignment you owe us. You have not given us an account after the consultation has been completed for a whole year. For this reason, I would like to put these important issues on the record. With regard to the problem of low visibility, according to a recent survey conducted by the University of Hong Kong, the death toll caused by the problem of low visibility is as high as 1 200 each year. All of these are attributable to roadside air pollution problems, which have been fully revealed by roadside monitoring stations. What is more, the standards roadside monitoring stations adopt now are based on the air quality objectives drawn up in 1987. Such standards have been completely out of date, having a history of 24 to almost 25 years, which is old enough for a silver jubilee celebration. However, up to now, Secretary YAU has failed to tell us that after the review and consultation have completed, at which level our air quality objectives will be set.

President, I speak on behalf of the Civic Party on this Bill and the air pollution problem, especially the problem of roadside air pollution. Besides speaking in support of this Bill, I strongly urge Secretary YAU to put more effort into more effective emission reduction initiatives. Thank you, President.

MR CHAN KAM-LAM (in Cantonese): President, at present, the international community is generally placing importance on environmental protection, and the SAR Government has also been active in promoting environmental protection work in recent years, which is worth our appreciation. The formulation of the Motor Vehicle Idling (Fixed Penalty) Bill (the Bill) aims to reduce air pollution, heat and noise generated from motor vehicle idling, especially to reduce air pollution at the roadside caused by vehicle emissions so as to minimize the nuisance caused to the pedestrians and shops in the vicinity. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) is supportive of the aim and principle of this Bill.

Since the details of the Bill are announced, quite a number of people, especially those in the transport industry, expressed their worries over the relevant requirements. The DAB has also met not a few organizations and listened to their views. The requirement of turning off idling engines has brought inconvenience to both drivers and passengers. Members of the transport industry have even worried that the requirement concerned will affect their livelihood. During hot weather, in particular, if minibuses and taxis need to have their engines and air-conditioners turned off while waiting, passengers may choose to take other means of transport, for example the MTR, as they do not want to get into a hot and stuffy "steaming pot". We also understand their worries, and thus insist that certain vehicles and drivers should be exempted. We hope that the Bill can strike a balance between the interests of roadside shops and pedestrians on one hand, and the interests of drivers and passengers on the other. We do not want to see a law, which is promulgated for the sake of improving the environment and enhancing the air quality, end up to be disturbing people's livelihood and even affecting the living of the transport industry.

In the course of the deliberation of the Bill, the Administration has also listened to the views of various sectors of society and has added not a few items of exemptions, including exemption of all taxis within the taxi stand areas, the first two minibuses of each route at a minibus stand, as well as school private light buses which I have asked for exemption for many times. While this move has gained more support from various sectors of society for the Bill and lowered the resistance in society to the passage of the Bill, it has also facilitated the final implementation of the Bill. Although we learn that some environmental groups have some differing opinions on the final version of this Bill, we are of the view that the present move is our first step in carrying out education and regulation on environmental protection. And we hope that this Bill can facilitate the continuous promotion of other environmental protection measures in future.

In the course of deliberation, we have also noticed that the arrangement of idling prohibition during rainy days and very hot weather may be unreasonable to many drivers. Under such weather conditions, when the windows have to be kept closed after the engine is turned off, this is definitely a torture to the driver or passengers in waiting. Although the authorities, in response to the views concerned, have already prolonged the period of exemption for Very Hot Weather Warning or amber, red or black rainstorm warning signal till midnight of the day

after the warning has ceased to be in force, in regard to the issue of idling prohibition during rainy days, we think we have to consider, from a pragmatic point of view, the actual difficulties encountered by members of the public in complying with the law.

Hong Kong has a subtropical monsoon climate with a longer rainy season. Besides, the weather is mostly sultry on rainy days. In accordance with the record of the Hong Kong Observatory, the number of rainy days in Hong Kong is over 200 days annually. Between February 2010 and February 2011, a total of 26 rainstorm warning signals (including amber, red and black) were only issued by the Hong Kong Observatory. In other words, under the existing amendment proposed by the Government, drivers can only be exempted from idling prohibition for less than 30 days. On nearly 200 days, they have to turn off idling engines and cannot open the windows even if it rains.

As we all know, the number of heavy rainy days in Hong Kong is not only 30 days. Rainstorm warning signals are drawn up in accordance with the overall rainfall of the entire territory. Even no rainstorm warning signal is issued, it is possible that the rainfall is especially heavy in individual districts. Sometimes when the rainfall is not very heavy, but since it is windy and raindrops keep splattering on the vehicle, the driver still cannot open the windows. When the idling engine has to be turned off leading to no air-conditioning, and the windows also have to be kept closed, if there are elderly people, children, pregnant women or sick people inside the vehicle, what can we do? Will it be too unreasonable to keep them all inside the stuffy vehicle? Or will it be too awkward and troublesome to ask them all to get off the vehicle while waiting?

Precisely because there is so much inconvenience for stopping the vehicle on rainy days, some drivers would rather drive slowly around the area nearby instead of waiting at the roadside with the engine turned off. This, however, will only aggravate traffic congestion on rainy days, increasing the risk of having accidents. Driving slowly around the area for the sake of not turning off the engine is also against the principle and concept of reducing emission by idling prohibition.

President, to promote the environmental protection policy, what is the most important is to build up a public awareness in environmental protection, so that

the public can take up green living patterns and habits out of their own initiative in their daily life. The implementation of the law largely serves the purpose of education and regulation. If the authorities implement the law with force disregarding the various specific situations that may happen during the actual enforcement of the law, this will only give the public an impression that the Ordinance concerned is a policy disturbing people's livelihood, causing them to find the relevant environmental protection policy offensive, this will only run counter to the original direction. Based on the abovementioned reasons, we did consider proposing a Committee stage amendment to the effect that on rainy days, all vehicles can be exempted from idling prohibition.

The Administration also understands the worries of the public. After repeated discussions with me, it has also agreed to make concessions and adopted a compromising approach. It has undertaken to formulate some guidelines so that law-enforcement officers will enforce the requirement of idling prohibition with tolerance and flexibility on rainy days. In my opinion, such an approach of the authorities is to heed well-intended advices and take account of actual needs. Therefore, I decided not to propose an amendment. I hope that the Government can draw up the guidelines concerned as soon as possible. We will also continue to pay attention to the views of the public and transport organizations on the enforcement of the Ordinance, and reflect them to the Government promptly, so that the Government can conduct timely review.

Besides, apart from strict enforcement of the law, the Government should also encourage the public to use electric vehicles or hybrid vehicles, so that air-conditioning can be provided with cleaner fuel even when the vehicle is in a stationary state. Or it should encourage research and development to introduce independent air-conditioning system, with a view to promoting and producing new environmental products to be put on the market. In this way, not only roadside air quality can be improved, drivers and passengers inside vehicles also do not have to stand the heat under hot weather.

President, we hope that the Government will develop a strategy for environmental protection measures in various aspects. Knowing that it is not easy to launch environmental protection initiatives, we hope members of the community can put in efforts together to make the globe more friendly to the environment.

President, with these remarks, I support the Bill and the amendments proposed by the authorities.

MR KAM NAI-WAI (in Cantonese): President, with regard to this Bill, to put it simply, that is, the Bill on idling prohibition, we in the Democratic Party give it our support.

Nevertheless, when I checked the records earlier, I found that the former All Party Clean Air Alliance Working Group (the Working Group) of the Legislative Council made a dozen of recommendations as early as in May 2000. One of the recommendations was urging the Government to speed up legislative procedures against idling engines, that is, the idling prohibition. We newcomers also found in the old records that 10-add years ago — more than 10 years ago — the Legislative Council had recommended such a measure to the Government. Unfortunately, it is as helpless as "a child suffering from acute infantile convulsions who is being treated by a slow-reacting doctor". The Government has not legislated against idling engines until today. It is most disappointing about the Government's efficiency of work and understanding of public sentiment. As a result, under what circumstances has this legislation been enacted? It was in a summer vacation where a driver suffered from heatstroke. The authorities then found that many professional drivers had very strong opposing views. It is under such circumstances that the Bill has been enacted. It can be inferred from the idling prohibition law that the Government has always failed to understand public sentiment and public opinion.

When formulating these environmental improvement measures, why does the Government just now I have heard Mr CHAN Kam-lam of the Democratic Alliance for the Betterment and Progress of Hong Kong say that the Government's work in improving the environment has been worthy of recognition. President, I very much hope the Government can listen to more views. If you ask the views of the Democratic Party, we consider that although the Government's work in improving the environment is not getting a score of zero, it is certainly not getting a pass. I do not think that the Government's work in improving the environment is worthy of recognition. Take the idling prohibition law as an example. The former Working Group of the Legislative Council made the recommendation as early as in May 2000, but the Government has not legislated against idling engines until today.

President, why has the Democratic Party all along been advocating that the Government should work on the idling prohibition? In fact, everybody knows that the heat and noise produced by idling vehicles will cause a nuisance to pedestrians and nearby residents, and it will also create the heat island effect, thus making serious impacts particularly on crowded districts. Members will understand if they have previously been to Mong Kok. The Secretary has also taken us to Mong Kok, Causeway Bay and other places to conduct observation, and members of the local District Councils came out one after another to present their petitions. They hoped that the Government would legislate for the idling prohibition as soon as possible due to the grave impact involved.

Moving vehicles discharge exhaust gases quicker, but in fact idling engines also discharge exhaust gases which will impact on nearby pedestrians. Idling engines also produce many pollutants, such as sulphur dioxide, carbon monoxide, and so on, which cause a great impact on the environment. Statistics have shown that if a vehicle engine is left idling for 10 minutes every day, it will unnecessarily consume 100 litres of petrol each year, thus creating 230 kg of carbon dioxide. In other words, idling engines will not only waste fuel, it will also cause impact on the environment.

Therefore, turning off idling engines on the one hand can save money and reduce petrol consumption, and it is also good for the environment on the other. For that reason, during the consultation conducted by the Government in 2008, the Democratic Party repeatedly called on the Government to table the relevant Bill to the Legislative Council as soon as possible. As I said earlier, I told Mr CHAN Kam-lam that instead of worthy of recognition, the Government's environmental improvement work was worthy of criticism. However, I also agree with one point raised by Mr CHAN Kam-lam, that is, the Democratic Party considers that the most important purpose of this Bill is not to punish the drivers, but to cultivate a habit of switching off idling engines among the public. This is actually the most important point.

There are similarities between this Bill and some other legislation enacted in the past, such as the law which prohibits smoking in lifts. I believe that in the past, the Government did not set any penalties to punish people for smoking in lifts. The purpose of this legislation is to cultivate the habit of not smoking in lifts among the public. Specific law-enforcement work may encounter difficulties. How can you arrest those who smoke in lifts? Similarly, as to this

Bill, the Government has proposed a number of amendments, that is, a number of exemptions. The Democratic Party supports these amendments hoping that the authorities will implement the idling prohibition as soon as possible, so as to let the public aware that idling engines must be switched off.

Therefore, I hope the Government will enforce the law with flexibilities after the passage of this Bill, instead of forcing the enforcement of the law, so as to avoid turning it into a measure that disturbs the people. This is a very important point. Of course, we hope that after the Bill officially becomes law, the Government will at least provide a grace period of six months to one year before enforcing the law, so as to allow the public to have time to adjust to the requirements of this legislation.

However, I would also like to raise one more point. In addition to the flexible enforcement of the law, we also hope that the Government will not assume that the work on improving air quality is completed after the idling prohibition legislation is passed. One of my serious concern is that the Secretary always spends at least 25 to 35 minutes in replying environmental issues raised by us. The Government's reply is always impressive and self-complacent: "Look, we have done a lot." I would like to urge the Government not to deceive itself as well as others. In fact, if this Bill is passed, we have only taken a very small step forward insofar as improving air pollution is concerned.

Does the Government really have the determination to improve the air pollution problem? What I am referring to is the entire Government, not only the Environment Bureau. However, since the announcement of the Budget, the Government's credibility has gone bankrupt and the entire Government has not been functioning anymore. It is even dubious whether the Government can be deemed a government. But in any case, I have to put forward my views and put them on the record. As the saying goes, good advice may sound harsh to the ears. Even the Government dislikes to hear, I have to make myself clear. No matter whether the Government can make it or not, I must put forward these views.

As to the Government's effort in improving the air pollution problem, I just wish to put forward "three nots". The first "not" is "not responsible". The issue of amending the air quality objectives has been discussed for 20 years. Despite such a long period of consultation, the Government is still reluctant to

make any changes after the opportune moment has passed. This is the first "not" in "not responsible".

The second "not" is "not practical". How is it "not practical"? In fact, we all know that the major source of roadside air pollution is from franchised buses. Every day, there are many franchised buses running on the road. The Government is "not practical" in that it simply provides only a few electric vehicles for bus companies to try out. Our colleague Ms Audrey EU has also mentioned just now that the Government has a surplus of some \$70 billion, what is the difficulty for it to replace buses? We have made some calculations. The value of a bus is \$3 million, how much will we spend on replacing 1 000 buses? Everyone can come up with the answer. But the Government is unwilling to spend even several billion dollars. Why is it so difficult? This is the second "not" in "not practical".

The third "not" is "not willing to commit". The Government has always done some minor patch-up work. The Government is only willing to allocate \$300 million to the Pilot Green Transport Fund this year, that is, to allocate \$300 million. "Mr KAM, please do not say that we have not allocated funds. To allocate \$300 million from some \$70 billion is already a large sum of money." This is not practical. We are already very slow to start. But the \$300 million is still allocated on a trial basis. I do not know what results would be yielded from this pilot scheme, right? If I oppose the establishment of the Fund, it seems that even a pilot scheme put forward by the Government is not allowed. Can the Government's work really hit the target? Is the Government not responsible, not practical and not willing to commit? The Government must answer this question.

I do not want to hear the Government say to me, "Mr KAM, you have definitely not read those documents. We have set a timetable. We will do certain work at a certain time." However, exactly what work for example, regarding the waste levy, the Government is tardy in submitting its proposal. After discussing the landfill issue, the public have been thinking of tackling the waste disposal problem. Unfortunately, the Government has again missed the opportunity. Why has it always failed to grasp these actual problems?

I want to tell the public that the present air pollution problem has caused serious impact on our health. Every time we discuss air pollution issues, I cannot refrain myself from bringing up the index put forward by Prof HEDLEY.

Let me provide once again the information concerning the index, because each time there are updated data. I will only refer to the data from 1 January 2011, that is, the recent data, lest that the reference of data of several more years may scare Honourable Members. From 1 January 2011 to yesterday — I should say 1 March as my speech was written a few days ago — from 1 January 2011 to 2.30 pm 1 March, that is, in just the first two months of this year, 153 premature deaths were cause by air pollution. This is only the figure for the first two months of this year, which is based on the HEDLEY index.

Therefore, as to air pollution, why can our Government not spend more resources on improving the air pollution problem? Why can it not make use of more surplus from the some \$70 billion to improve the work on air pollution? Recently I have read an article published by the Friends of the Earth on 22 July last year titled "Support idling prohibition but it has limited effect on improving pollution". I believe Secretary Edward YAU has also read the article. I believe we all agree that we should take one more step as far as improving the air pollution problem is concerned. We all understand that the idling prohibition is unable to make obvious improvement in environmental pollution. We know that a lot of projects are underway, but the Environment Bureau's work progress is really too slow.

The article has also mentioned that to one's surprise, the Environment Bureau has ignored countries nearby — forgetting that Singapore and Tainan, which are also in Asia and have similar climate as Hong Kong have implemented the idling prohibition — but has drawn reference from Canada where the temperature and humidity are so different from Hong Kong, as the basis for formulating the legislation. I hope the Secretary can respond to this point. Why has the Government sought far and wide for what lies close at hand? Has the Government, as mentioned in the Friends of the Earth's article, drawn no reference from nearby regions regarding the idling prohibition law? I hope the Secretary can respond to this point.

President, to sum up our comments in the Second Reading debate, we very much hope that this Bill will be passed as soon as possible, and that in the process of the implementation of the legislation, the authorities will enforce the law in a lenient and flexible manner, so as to avoid voices of discontent among the public and the stirring up of another wave of public indignation. Thank you, President.

MR WONG KWOK-HING (in Cantonese): President, regarding the Bill on the idling prohibition, commonly known as "switching off the idling engine", we Members from the Federation of the Trade Unions will support this Bill today in view of the fact that the Government has finally accepted our views and made certain exemptions.

The transport industry, particularly the Motor Transport Workers General Union, expressed strong views on and dissatisfactions at this Bill. However, when the Government introduced this Bill and the policy was still at the brewing stage, the Government refused to listen to the complaints and opinions of professional drivers and seriously consider their views on the improvement of the Bill. As such, they were strongly dissatisfied and organized demonstrations, petitions and protests. Unfortunately, the Government still turned a deaf ear to their views. Until 2 July last year, a driver, "Uncle LEUNG" was struck by a heat stroke at Fa Yuen Street, Mong Kok and died on 3 July. According to the relevant report, the outside temperature at the time was 32.8°C while the ambient temperature inside the vehicle was 43°C. The 81-year-old "Uncle LEUNG" was confirmed to die of heat stroke. On 4 July last year, a 37-year-old bus driver Mr NG caught a heat stroke when he was driving a KMB "hot dog" bus en route to Tsuen Wan. Fortunately he recovered from the heat stroke afterwards. It was reported that the outside temperature at the time was 31°C. After the occurrence and the widespread coverage of these two tragic incidents, the Government was more relaxed in its approach and willing to consider the strong views of professional drivers and the industry.

Subsequently, we could see that the Secretary was willing to accept the invitation of the Bills Committee to have a taste of a "sauna" session. The Government was willing to change its approach afterwards. We surely welcomed the Government's willingness to change. Finally, the Government listened to the public opinion and made some amendments. Therefore, we can see that in the finalized version of the Bill proposed by the Government today, our demand for exempting taxis at all taxi stands in Hong Kong has been accepted. For minibuses waiting at minibus stands, if the third vehicle has passengers on board, it will also be exempted. Vehicles queuing up for refuelling at liquefied petroleum gas filling stations, vehicles queuing up for entry into a petrol station, a car park, a container terminal, a landfill for operation purpose will also be exempted. School minibuses with passengers on board will also be exempted. Exemptions from the idling prohibition would also be

allowed for the whole day when the Very Hot Weather Warning, severe weather warning, and amber/red/black rainstorm warning signals are issued. We welcome all these arrangements as we feel that the Government is willing to change its approach finally.

Nevertheless, why could the Bureau not listen more to public opinions before July last year when these two tragic events occurred? If the Government could really understand the public sentiment, understand the pain of professional drivers and make amendments earlier before these unfortunate incidents occurred, a lot of controversy would be avoided and society would be more harmonious. I really do not understand why the Government is only willing to change when there are deaths and injuries. What is the point? Why? I really hope that the Government will learn a lesson and not to make policy adjustments only when social conflict is instigated and society is on the verge of confrontation. In fact, this has hurt many people's heart. I hope the Government will learn a lesson from these experiences.

President, this incident has revealed the fact that the existing Occupational Safety and Health Ordinance (OSHO) does not cover professional drivers, which is a loophole in the existing law. During the scrutiny of the Bill, when the Deputy Commissioner for Labour, his assistant and officials concerned attended the meeting of the Bills Committee, I asked the Labour and Welfare Bureau and the Labour Department why professional drivers were not under the protection of the OSHO and the relevant labour laws. What feedbacks did I get? The authorities told me clearly that professional drivers were not included. I asked them why professional drivers were not included. They said that there were two reasons. On the one hand, professional drivers were very likely to be self-employed, and they were very likely to be owner-drivers. How can professional drivers be excluded from the protection of the OSHO simply because they are "very likely" to be self-employed? This is absolutely unreasonable.

The other reason the Bureau gave me was that the existing traffic regulations already provided full protection to drivers and passengers. I then asked how comprehensive the existing Road Traffic Ordinance was. Information has shown that the current Road Traffic Ordinance includes the following regulations — President, please allow me to read them out — the first one is Cap. 374A, the Road Traffic (Construction And Maintenance Of Vehicles) Regulations; the second one is Cap. 374F, the Road Traffic (Safety Equipment)

Regulations; then it is Cap. 374G, the Road Traffic (Traffic Control) Regulations; and the fourth one is Cap. 374B, the Road Traffic (Driving Licences) Regulations. These four regulations refer to the construction and maintenance of vehicles, safety equipment, traffic control and driving licenses respectively. If these are claimed to be full protection to drivers, it is really very ridiculous.

In the Bills Committee, I have criticized the absurdity of the replies given by Labour Department's officials in charge of occupational safety matters. I have also strongly criticized the Labour Department for being irresponsible in the protection of professional drivers, and that there are serious loopholes in the law. Finally, upon my strong criticism, the Labour Department has made a response by undertaking to discuss with the transport industry and formulate the relevant guidelines to make further improvement regarding the idling prohibition after the passage of the Bill today. Regarding this undertaking of the Labour Department, I have substantial reservations. It is because the so-called guidelines to be formulated are not legislative amendments targeting the exclusion of professional drivers in the existing OSHO. These so-called guidelines are insignificant and irrelevant, which cannot provide any safeguards at all.

President, for that reason, I would like to say a few words to Mr Edward YAU, the Secretary for the Environment via you. I wish Secretary YAU would convey to Secretary Matthew CHEUNG that the loophole in the existing OSHO should be followed up and amended by the Labour and Welfare Bureau. This is an unshirkable responsibility. I will certainly follow up the matter until it is resolved. Therefore, I would like to ask Secretary YAU to tell Secretary Matthew CHEUNG that he should follow up with the OSHO (Cap. 509) after the Bill is passed today by plugging the loophole which has left professional drivers unprotected. This is the responsibility of Secretary Matthew CHEUNG, which is impossible for them to shirk. I hope Secretary YAU will convey the message to him.

With regard to improving air quality and the environment, a responsible government should examine all the road issues, and not just rely on the punitive idling prohibition legislation to be passed today, thinking the problem can then be solved. Let us take a look again at the progress of the road greening work and tree planting in Hong Kong. In fact, it is very unsatisfactory. Let us take a look at the progress of the measures which protect passengers from sun and rain

while waiting at minibus and taxi stands. Furthermore, we hope that cars, taxis and minibuses can reduce the use of air-conditioners, but have we provided any covers to protect them from sun and rain? The answer is no. These work cannot be done by the Environment Bureau alone. However, has the Environment Bureau conducted a comprehensive review in conjunction with the Development Bureau, the Transport Department, the Highways Department and other relevant government departments? I believe the answer is also no. The Environment Bureau only takes care of its own responsibility, that is, to amend the existing legislation to punish drivers who do not turn off idling engines. This is all the Bureau has done. We cannot see any arrangements in the other areas.

Therefore, I would like to take this opportunity to urge Secretary YAU and other relevant Policy Bureaux and government departments to work together to improve the hardware facilities on roads, rather than taking stop-gap measures. Why do I make such criticisms? Let me give an example. Regarding road greening work, the Government has formulated the Greening Master Plan (GMP) for Kowloon and Hong Kong, but not the New Territories. A few years ago, after I had strongly and repeatedly raised this issue in the Legislative Council, Secretary Carrie LAM finally responded positively — in fact this happened in recent years — she undertook that a GMP would also be formulated for the New Territories. Let us look at this example alone. Why was a GMP only made available for the New Territories after our tight pursuit? This has shown that when considering environmental protection and air quality improvement measures, the Government has not viewed the matter from a holistic and comprehensive point of view. Different bureaux and departments only do their own jobs.

Therefore, I would like to clearly state that even the Bill is passed today, the Government is duty-bound to prudently look at ways to improve Hong Kong's air quality and environmental protection measures, and to promote road greening work in a comprehensive way.

President, when we were passing through Wan Chai today, I really missed Mrs Peggy LAM, the former Chairwoman of the Wan Chai District Council. She promoted greening in Wan Chai more than 10 years ago. Now every time we pass through Wan Chai, we can see a lot of trees (*The buzzer sounded*) This shows that a comprehensive

PRESIDENT (in Cantonese): Your speaking time is up.

MR WONG KWOK-HING (in Cantonese): comprehensive planning is necessary.

MR CHAN HAK-KAN (in Cantonese): President, I would like to speak generally on the resumption of the Second Reading of the Motor Vehicle Idling (Fixed Penalty) Bill (the Bill). While Mr CHAN Kam-lam has just explained clearly his concerns over the exemptions from the idling prohibition on rainy days, I would like to speak on the overall policy.

President, the air pollution problem can be broadly divided into two different aspects, namely the macro aspect and micro aspect. The former involves the overall air pollution situation in Hong Kong, or even the cross-boundary air pollution situation in the Pearl River Delta Region. The latter involves roadside air pollution situation. Nowadays, when we turn on the television to watch the weather programme reporting on the weather information by the Hong Kong Observatory before going to work or to school, we will be told the Air Pollution Index (API) readings in addition to the weather conditions of the day. The Hong Kong Observatory will also provide health advices in light of the level of air pollution. If you keep track of the API information, you will know that two kinds of readings are available. They are API readings collected by roadside air quality monitoring stations (AQMSs) and those by general AQMSs. The API readings registered by roadside AQMSs are always higher than those registered by general AQMSs. In recent years, the total number of hours during which air pollution reached a very high level as recorded by general AQMSs has been going down year after year. On the contrary, the total number of exceedance periods as recorded by roadside AQMSs has been increasing year after year. This well illustrates that efforts should particularly be made for the roadside pollution problem and that legislating to mandate the turning off of idling engines is one of the measures for this purpose.

President, just as some other colleagues said earlier, it has been nearly a decade since the initial launch of a voluntary campaign to promote the practice of switching off idling engines, followed by consultation, discussion and finally legislation. While all of us agree that keeping the engine off while waiting is an

environmental measure, we have different considerations and concerns when it comes to actual implementation. The transport industry, in particular, has made many different comments on this measure, of which some are found to be reasonable. Speaking of the special weather conditions which some Members talked about earlier on, Hong Kong is hot and humid with frequent downpours. If the idling prohibition is to be implemented across-the-board, this will certainly affect the health of professional drivers who need to work inside the vehicle compartment for long hours. Furthermore, insofar as the taxi trade is concerned, there is a genuine need for the Government to expand the scope of exemption from the idling prohibition at taxi stands. Given the unique operational circumstances of the taxi trade in Hong Kong, extending the exemption will also enable drivers to switch on and off the engine less frequently, thereby avoiding aggravation of the wear-and-tear of the engine components. The Secretary for the Environment has accepted some of the recommendations made in this regard, and has also agreed to propose an amendment in order to include the said exemption in the Bill.

President, unfortunately, in the course of our scrutiny of the Bill, a professional driver died from heat due to the extremely hot weather, and quite a number of professional drivers collapsed inside their vehicle compartments because of the same reason. In light of these incidents, we attached greater importance to the views of the transport trades, particularly the risk of diseases that may be posed by the idling prohibition during our deliberation of the Bill. The statutory ban on idling engines is, after all, a new measure in Hong Kong. There may be enforcement difficulties if a stringent approach is adopted from the outset. In the first place, the number of enforcement agents is limited. In the second place, if the application is excessively strict, it will result in the community accumulating grievances, and turn the well-intended efforts to harms. In order to balance the interests of various parties, it is understandable that the Government has proposed a number of amendments and provided more exemptions from the prohibition to deal with the problems faced by the transport trades. Despite that some organizations are discontented with the amendments and exemption arrangements made by the Government, thinking that the Government has made too many concessions, the transport trades actually still have great reservations about certain provisions in the Bill up to the present moment.

President, I could still see that some trade unions expressed their dissatisfaction with and raised objection to the Bill at the Council meeting held on

this Wednesday. Even in the internal discussion of the Democratic Alliance for the Betterment and Progress of Hong Kong, many of us have had different views. Ms Starry LEE has had great reservations about this Bill, yet she will follow the party's line to vote eventually. We have spent a lot of efforts and time on persuading her to support the Bill.

It is generally agreed that banning idling vehicles with running engines can help improve the air quality. If some people insist on clinging to their own views on account of certain technical problems, which results in the Bill being defeated subsequently, this will only jeopardize the overall interests of Hong Kong in the end. For this reason, I hope that some sort of compromise and concessions can be made such that the Bill can be passed and an important step forward can be taken.

President, the Bill may come into effect in this September the earliest. In my view, it is incumbent upon the Government to work in good time to follow up on the subsequent work put forward by the Bills Committee, for instance, providing covers and shades at more minibus stands, planting more trees, as well as encouraging the Hong Kong Productivity Council to develop a retrofit device to enable the operation of air-conditioning system by battery. Subject to the demand from the transport trades, the Government may introduce this new technological device to solve the difficulties faced by the trades. At the same time, I also request that after the commencement of the Bill, the Environment Bureau should report to the Legislative Council Panel on Environmental Affairs regularly, and further fine-tune or optimize this legislation depending on the actual implementation.

President, as I said earlier, exemption arrangements will be provided under the Bill. I am afraid that law enforcement may lead to disputes in the future. Simply put, the two actions of stopping the car and turning off the engine may be completed in just a short period of time. It is believed that the enforcement agents may encounter certain difficulties in enforcing the law, as well as collecting and adducing evidence. The Bill states that a grace period of three-in-sixty-minutes will be provided to all drivers. How will this grace period be calculated? What kind of equipment will be used by the enforcement agents? At which point of time will the grace period start? The Bills Committee has conducted numerous discussions on the various problems mentioned above, and I believe that disputes over all these issues will spread from the Council to the whole community after the commencement of the Bill.

In order to minimize disputes between drivers and enforcement agents, it is incumbent upon the Administration to step up its publicity efforts by explaining to motorists the content of the law, so as to prevent them from being inadvertently caught by the legislation. At the same time, apart from providing clear guidelines to all frontline enforcement agents, it is better to be lax than stringent during the initial period after the law has been brought into effect. This may prevent the enforcement agents from "victimizing the innocent".

President, the Administration has made itself clear from the outset that the objective of introducing the idling prohibition is to improve roadside air quality. It is simply unnecessary for me to say how bad our roadside air quality is. The idling prohibition is only one of the many measures devised to improve roadside air quality territory-wide, and among such measures, many are awaiting to be put into practice actually. Despite that over the past few years, the Legislative Council Panel on Environmental Affairs has discussed those measures on many occasions and that proposals have also made to the Administration for implementation, no solid progress has seemingly been seen so far.

I raised a question at a Council meeting last year, requesting the Administration to install more roadside AQMSs in busy districts. The response of the Environment Bureau, however, was not encouraging. We were told that AQMSs had been set up in Central, Causeway Bay and Mong Kok, and that the existing arrangement was suffice. Yet, I personally think that in the absence of more AQMSs to provide sufficient data and information, the Government can hardly assess the roadside air quality in Hong Kong and make improvements accordingly.

As far as fuel oil is concerned, notwithstanding that the Administration specified the standards for biodiesel last year, no publicity and promotional efforts have been made so far. Nor has it assisted the trade in introducing biodiesel into the market. Thus, many motorists do not know biodiesel can be used in Hong Kong. Talking about the area of work in which the Government has done best and made most of its efforts, we will surely think of its promotion of the use of electric vehicles in Hong Kong. Notwithstanding this, the battery charging facilities for electric vehicles are still inadequate in the territory. Coupled with the limited supply and choice of these electric vehicles and hence the high selling price, it is not at all easy to attract Hong Kong people to widely use them at this stage.

President, we must reduce the number of high emission vehicles if we are to improve our roadside air quality further. Despite that not all pre-Euro and Euro I diesel commercial vehicles were eliminated by the Government's implementation of the subsidy scheme for owners of commercial diesel vehicles to replace those with new ones in the past few years, at least some 20 000 high emission vehicles were removed from the roads. In addition, the Government's measure of waiving the first registration tax for green private cars has successfully attracted more than 10 000 green cars for registration. Having said that, I feel really strange about the Government's proposal to increase the first registration tax for motor vehicles in this year's Budget which, in my view, will deal a blow not only to the car-purchase sentiment of the public obviously, but also to their interest in switching to green vehicles. This new measure sounds to be contrary to the environmental policy.

President, to my knowledge, the focus of implementing the idling prohibition through this piece of legislation is on changing motorists' behaviour rather than penalizing them, thereby instilling them with the habit of turning off engines while waiting and hence, making the air of Hong Kong cleaner.

With these remarks, President, I support the passage of the Motor Vehicle Idling (Fixed Penalty) Bill as well as the amendments proposed by the Administration.

MS MIRIAM LAU (in Cantonese): President, in the 2007-2008 Policy Address, the Chief Executive proposed to introduce a statutory idling prohibition, or commonly known as "banning idling vehicles with running engines", with a view to improving the air quality.

It has been three years since the idea was first proposed, which is a rather lengthy period. However, the promotion of the practice of turning off engines while waiting was started 10 years instead of three years ago. I recall that in 2000, the Government suggested the voluntary implementation of this idea. I wish to declare that I am a driver and at that time, I proactively promoted and responded to the voluntary campaign by putting the idea into practice. Following my participation in the campaign, I have insisted on switching off the engine once the vehicle is stationary.

The Liberal Party is the first political party to suggest legislating against idling vehicles with running engines. Just now, Mr KAM Nai-wai mentioned

that in 2000, a few political parties joined hands together — I forget whether it was a coalition or what, is it the eight-party coalition? Maybe yes — The political parties were also supportive of this proposal at that time, hoping that the Government would be able to implement the proposed ban as early as possible. Later on, after the launch of the voluntary campaign, the Government has never again introduced any other measures in this regard. I remember that consequently in 2004 or 2005, the Liberal Party worked vigorously to encourage the Government to introduce a statutory idling prohibition.

Having said that, the Liberal Party is also fully aware that the idling prohibition does have certain impact on professional drivers in Hong Kong. Given the hot and humid weather here in Hong Kong, it is not uncommon to learn from the media that many professional drivers collapse with heatstroke while working on very hot days or even die a sudden death. Despite the Liberal Party's strong advocacy and active promotion of legislating for the idling prohibition, we have, at the same time, requested the Government to grant appropriate exemption to professional drivers in the legislative process, having regard to their actual situation.

As I said earlier, it is so hot in Hong Kong that the temperature can reach as high as 32°C or 33°C almost every day. Even though the Chamber where we are sitting is air-conditioned, I am quite certain that all of us may not be able to stand the high room temperature of say 27°C or 28°C, not to mention 32°C or 33°C. Even worse, drivers often work under the scorching sun and stay inside their vehicles for long hours.

The situation for drivers of private cars may be a bit better as they can flexibly adjust their driving time. They can park their car and leave the vehicle for a rest if the weather is hot. One may faint easily if one stays in the sultry compartment for a long time. The situation for professional drivers, on the contrary, is completely different. Take taxi drivers and minibus drivers as an example. Unlike drivers of private cars who can flexibly arrange when and where to drive, professional drivers can never leave the vehicle compartment while working and are left with no alternative but to stand the heat stress no matter how hot it is inside a vehicle.

For this reason, we keep on saying that the idling prohibition is worthy of our support theoretically. From the angle of environmental protection, it is also worthy of implementation. Yet, the Government should really pay attention to

the impact of the idling prohibition on professional drivers. It is absolutely not our wish to see that a good policy or a policy which we consider to be worthy of support will have any adverse effect on professional drivers, jeopardizing their health and increasing their risk of heat stroke in the hot summer. This is definitely not something that we wish to see. I would also like to point out that road traffic safety will surely be affected if drivers suffer from heat stroke. In this connection, we should also take into consideration the safety issue.

I would like to take this opportunity to speak for the sector I represent. Basically, the transport trades support the improvement of air quality without reserve, which is evident from their actions over the past 10-odd years. More than a decade ago, the taxi trade was willing to show their support to the proposal of switching to liquefied petroleum gas (LPG) by giving up diesel which had been commonly used for a long time, even though such a big change had a great impact on the trade.

In addition, the public light bus (PLB) trade also supported the use of LPG light buses, but we should all take note that not every PLB is suitable to use LPG. Some PLBs operate on fixed routes and without any LPG filling station en route, they simply cannot provide any service. Hence, it is quite difficult for such PLBs to switch to LPG light buses. Drivers of heavy vehicles, of course, also actively supported the Government by installing catalytic converters on their vehicles. All these actions show that the transport trades strongly support the Government's environmental measures. As indicated by the transport trades, they are supportive of the idling prohibition as long as the implementation can meet the justified needs in respect of their operation.

However, when the proposal to ban idling vehicles with running engines was first introduced, the Government actually did not give due regard to its impact on professional drivers and drivers as a whole. Furthermore, the Government has not provided sufficient supporting facilities, nor has it given due consideration to the unique climatic environment of Hong Kong, in particular the justified operational needs of the transport trades.

In her earlier speech, Ms Audrey EU said it seemed to her that the Secretary for the Environment or the Environment Bureau was like "being stripped naked" as the Bill on banning idling vehicles with running engines contained numerous exemptions. I will describe the whole process of fighting

for reasonable exemptions as being like "squeezing a tube of toothpaste". Worse still, what we were trying to squeeze was a tube of toothpaste which had been dried up already. I believe Members can easily imagine how difficult it is for us to squeeze a tube of toothpaste which is dried up. Perhaps I should spend a little time on the historical accounts of our fight and what kind of process we went through.

First of all, I would like to criticize that the Environment Bureau does not have an adequate understanding of the operations of both the transport trades and the vehicles. Why do I say so? During the consultation on the legislative exercise relating to the idling prohibition, Secretary, I did say that exemption arrangements were also provided in places like Canada where vehicles, for instance, were exempted from turning off the engine within the first three minutes after coming to a stop. Our Government, however, considered this arrangement totally unnecessary. I tried my best to explain that it was essential to grant an exemption period of a few minutes since some of the vehicles were equipped with a turbo engine, and as far as these vehicles were concerned, they needed to keep their engine running for a few minutes both before departing and after stopping, or else the operation of such vehicles would be seriously affected.

The Government did not believe my explanation at the beginning and hence, I paid a visit to the engineers of the Hong Kong Polytechnic University and managed to obtain some relevant documents. I tried my best to point out that an exemption period of a few minutes should be granted to such vehicles, or else they would become inoperable. Fortunately, although the Government did not trust me, it consulted its expert again subsequently and the expert's opinion coincided with what Ms Miriam LAU had said. Consequently, the exemption arrangement of a three-in-sixty-minute grace period was finally provided in the legislation.

My second criticism pertaining to the Government's inadequate understanding of the trades concerns the arrangement at a PLB terminal. It was originally proposed by the Government that the first two PLBs were exempted from the idling prohibition. The Secretary failed to understand that usually, there is not any formal terminal for red PLBs, not to mention that there are two PLBs waiting at the terminal. Many of these so-called PLB terminals are actually gathering spots where several PLB routes are in operation. If the Government only exempts the first two PLBs, exactly which two can be

exempted? Such an arrangement is really confusing. This indicates that the Environment Bureau actually has no idea about the operation of the transport trades.

The exemption arrangement applicable to taxi stands was something which entailed lengthy arguments. The taxi trade pressed all along that exemption to be granted to the entire taxi stand. However, ever since the Government expanded the scope of exemption at taxi stands from the first two taxis to the first five taxis, no further adjustment was made. Both the trade and the Government stuck to their own stand for a long time. The latter kept on saying that granting exemption to the first five taxis was already a great relaxation, and that extending the exemption from the first two taxis to the first five was as great a concession as the Government could make and no more taxis could be exempted. The Government further advised that the exemption arrangement applicable to the first five taxis at taxi stands had already covered some 60% of the taxi stands throughout the territory, and this arrangement would suffice. If further exemptions were granted, the percentage of taxi stands covered by the exemption arrangement would increase, in which case the ratio would be far too high.

May I ask the Government whether it truly understands the operation of taxi stands? Frankly speaking, it does not, and this explains why it made such remarks. The reason for my saying so is connected with its reference to figures, with its claim that its original proposal could already take care of 60% of all the taxi stands in Hong Kong, and if there was any further exemption, the percentage would go up to 70%, in which case the rate would be much too high and it could not possibly convince environmentalists. This attitude was erroneous in the very first place.

The case with school children was the same. The Government understood that all public buses were completely enclosed, so it agreed to providing exemption for buses with at least one passenger or one person who is not the bus driver. However, initially, the Government adamantly refused to relax the requirements for private school light buses. Nevertheless, we really have to cherish and protect school children. For this reason, the Government eventually agreed to extend the exemption to school children and bring private school light buses inside the scope of exemption. I think it is very unfeeling of the Government to even refuse to let children and school children go.

Since the Government's stance was so firm, I joined hands with the taxi trade in September 2010 to conduct some tests at the taxi stands in Kowloon Tong and Hung Hom to ascertain how the situation would be like in the case where only the first five taxis were granted exemption from the idling prohibition. To put it simply, the results revealed that within a waiting time of just two to three quarters of an hour, the temperature inside the taxi compartment rose rapidly from 30°C to some 40°C. What is more, in the tests, the batteries and other parts of two out of the five waiting taxis suffered serious damage and must be completely replaced.

We submitted the test results to the Secretary, but he replied that the exemption arrangement proposed at the time could already take account of the trade's operational needs. He added that the proposed exemption aside, there were other traffic circumstances in which the engine of idling taxis might not need to be switched off. And, it was likewise unnecessary for taxi drivers to switch off the engine when boarding and alighting passengers. The Secretary commented that these circumstances as a whole would make it unnecessary for taxi drivers to repeatedly switch the engine on and off within short periods, so there would not be any problems at all. The Secretary further pointed out that the occurrence of so many disputes was mainly caused by the trade's failure to understand the relevant exemption arrangements. He therefore hoped that the trade could believe the Government's explanation that after the introduction of the ban on idling vehicles with running engines, such problems would not arise. In response, I asked the Secretary whether he would join me in an on-site test. But he turned a deaf ear to me and ignored the demands of the trade.

The latest exemption arrangements contained in the Bill are more numerous. For instance, when rainstorm warning signals are in force, there will be exemption. Why has the Government been persuaded to make such changes eventually? The credit does not go to me, Miriam LAU, nor does it go to any political parties or groupings. I believe that all is because we lost a PLB driver. He supported switching off the engine of idling vehicles, and he subsequently died of heat stroke due to the very high temperature inside the vehicle. After his death, the Government hastened to make a series of changes. Many of the amendments today, such as those on exemptions in times of Very Hot Weather Warning and rainstorm warning signals, were the changes that the Government started to show a willingness to consider from that time onwards.

However, all these amendments are not yet able to satisfy the demands of the trades concerned. Some members in these trades still hope that the Government can exempt all commercial vehicles from the ban. The PLB trade likewise hopes that the Government can grant exemption to the first three vehicles at a PLB terminal. And, it must be admitted that the exemption in connection with rainstorm warning signals may not be enough to solve all problems. This explains why Mr CHAN Kam-lam has enquired whether arrangements which are more lenient, or even a further exemption, could be introduced for rainy periods. Or, at least, the authorities should sympathize with the hardship of the trades in the course of enforcement, rather than simply thinking that all problems can be resolved by erecting some sort of rain shelters.

We are of the view that with the present 20-odd exemptions, the implementation of the idling prohibition may well be able to answer most of the demands put forward by the trades concerned. But they may not be able to cover all circumstances. Therefore, I would like to put forward three demands, in the hope that the Government can follow them up in the course of enforcing this piece of legislation on the idling prohibition.

First, the Government's enforcement must be sensible and reasonable. We do not wish to see any cases in which the Government issues a penalty ticket immediately after the expiry of the three-minute grace period, at one second past the three minutes. Guidelines must be clear enough to enable law-enforcement agents, the relevant trades and even ordinary motorists to understand the circumstances in which the Government and law-enforcement agents are supposed to take enforcement actions. Besides, in regard to taxi stands and PLB terminals, I hope that the Government can expeditiously recognize some informal stands/terminals as formal ones, so that they can likewise enjoy the relevant exemption. Third, the Government must also improve the facilities at all these stands/terminals by constructing covers and planting more trees. The Government should also — many public bus drivers have complained about the lack of parking spaces — provide more vehicle bays and parking spaces. Thank you, President.

MS CYD HO (in Cantonese): President, perhaps because environmentalism was first championed by middle-class people in the Conservancy Association such as academics and environmentalists who once lived overseas, and also by Ms

Christine LOH, in the past, people all had the impression that environmentalism was a bourgeois topic, a concern that would be raised only by well-fed and well-clad people who thought that they also needed some clean air. We therefore used to think that environmentalism was just icing on the cake, rather than a basic necessity of life.

President, this is a far cry from the reality, however. As a matter of fact, environmentalism is of much greater importance to the grassroots and will produce profound and far-reaching impacts on them. Air quality is an example. The living conditions of the middle class are better, and the air quality in their homes is generally better than that in the streets. And, even if they fall ill, they still have the means to seek medical treatment. In contrast, poor people live in cage homes and cubicle apartments. In times of torrid weather, it is practically impossible for them to stay home, and they must go out to street-side parks for fresh air. Therefore, improving air quality is more important to the lower strata and grassroots than to the middle class.

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

Deputy President, this is also the case with conservation. To all the middle-class families living in the urban areas, the New Territories is just a place of holidaying. But to village dwellers, especially the villagers of Choi Yuen Tsuen, the rural areas are their homes, their roots. If we adopt a dehumanized and bulldozer mode of development, requiring the villagers to vacate their village and apply for public housing without ever considering the moving of their village to a new site, we will in effect be exterminating their roots. Such a price should not be paid entirely by a certain socially-disadvantaged group.

Deputy President, at this juncture, I wish to put forward the concept of environmental justice. While taking forward environmentalism and conservation, we should at the same time take account of justice, especially the negative impacts on poor people. We must give them assistance by putting in place twice as many remedial measures, sufficient remedial measures. Therefore, I hope that in the course of implementing environmental policies, the authorities, and everybody for that matter, will not pay heed to the aspirations of the middle class only. The impacts of the relevant policies and measures on the

grassroots must also be our concern. If we can look at things from the perspectives of different social strata well in advance and examine how certain environmental policies should be implemented, how remedial measures should be adopted, and how exemptions should be given, and if we can adopt various measures to help the people cope with the relevant policies, we will be able to simultaneously protect the environment and the people, thus averting conflicts and clashes between the two. Naturally, the Government and political parties are also duty-bound to offer explanation to the public.

Deputy President, I also want to put forward another concept here: "When the green meets the red". "Green" in foreign countries stands for environmentalism. "Red" is the symbol of labour parties. A similar situation also occurred in foreign countries in the past. Politicians used to think that environmental issues were necessarily in conflict with labour issues. But the situation has changed with the emergence of green labour parties. When environmentalists champion policies on conservation and clean air, they will always base their consideration on labour interests and the perspectives of the grassroots, so as to foster the kind of social unity necessary for taking forward conservation policies.

"Banning idling vehicles with running engines" is a fine example. Hong Kong is still groping its way forward in this regard. I can remember that when this idea was first advanced, at a public hearing, some middle-class participants who claimed to be car owners remarked that they had long since adopted the practice of switching off the engine of their idling car. They said that after reaching the destination, they would as a matter of course stop their car and get off, so they could not imagine why the engine should not be switched off. They wondered why anyone should still keep the engine of his car running after alighting. Another point is that these middle-class people are themselves the car owner, and usually, they have to pull over just because they must wait for their children to finish school. Even if they are early, they need only wait 15 minutes at most. Or, they may have to pull over and wait until their spouse finish buying foods. But nowadays, people can use the mobile phone for fixing the time of picking up before they stop their cars. Therefore, in the case of private car owners using their vehicles for personal purposes, the torment of torrid weather arising from "switching off idling engines" is actually very limited. They do not need to put up with the torment for 11 hours a day.

However, the case of some professional drivers, especially taxi drivers, is different. Some of them must work "special shifts", starting work at 6 am. Those who are more hardworking even have to labour all the way to 9 pm. They must drive during the hottest period of the day when the sun is most scorching. They must drive on the roads for 11 to 12 hours a day. If they are required to switch off the engine of their idling vehicle while waiting for passengers, they will really be extremely miserable. Deputy President, last time when we invited deputations to voice their views, my first impression was it was hoped that people who championed environmentalism in Hong Kong could also appreciate the needs of grass-roots professional drivers because fresh air was equally important to all.

Another problem I can observe is that some people who have championed environmentalism are not totally and personally dedicated to the furtherance of the cause. Whenever they see the need for something, such as the need for supporting the banning of idling vehicles with running engines, they would call upon everybody to pay a price. However — I must first of all say sorry to Miss Tanya CHAN, but I am not trying to pick on her — I saw that many of the middle-class women who called upon others to support the ban that day all wore long hair. If Members have heard what former Director of the Hong Kong Observatory Mr LAM Chiu-ying said, they will realize that water consumption is against environmentalism: The consumption of a certain volume of water will always necessitate a corresponding amount of electricity consumption. The only thing is that the electricity consumption is not immediately noticeable to water users. Rather, electricity is consumed at power plants. What is more, as a result of shampooing, many chemicals will be washed down to the sewerage system, thus making the water purifying process at the end more complicated. Therefore, whenever "Long Hair" tells me that he supports environmentalism, I will invariably ask him to cut his hair before saying anything more to me, because wearing long hair will waste a lot of potable water.

Deputy President, I therefore hope that when Members talk about environmentalism, they can first see to it that they themselves are totally and personally dedicated to the cause. Another point is that environmentalism must be implemented everywhere in our society, so as to strike a balance of interests and responsibilities among all social strata.

At this juncture, I must thank the relevant deputations for informing us that in Canada, there is an exemption when the temperature reaches 27°C. Actually, in the case of Canada, they are talking about a temperature of 27°C inside the vehicle. And, the exemption we have in Hong Kong is available only when the outside temperature reaches the level of the Very Hot Weather Warning. I must also thank the Hong Kong Observatory for providing us with some statistics. We are thus able to know that during the periods when the Very Hot Weather Warning was issued in the past few years, the lowest recorded temperature was still as high as 30.2°C. Coupled with high humidity and low wind speed, simply walking in the streets will be torture enough. With the heat of the torrid sun, the temperature inside a vehicle will surely be a lot higher than 30.2°C.

I must also thank the Government for taking the step of offering exemption when the Very Hot Weather Warning is in force. But in regard to such a concession — I do not bother about any talks about "stripping naked" or about "squeezing a tube of toothpaste" — I do not feel quite so comfortable with one thing. I think the exemption is only a concession to the industry concerned, rather than a concession based on any recognition of the impacts of torrid weather on drivers. However, why have I stopped pursuing? Deputy President, the reason is that since the Government has already yielded totally to the demands of the whole industry, it will be better to withdraw the whole piece of legislation if any further concessions are to be made. When I learnt of the authorities' corresponding concessions to the taxi industry, I decided to stop pursuing an exemption when the temperature reaches 27°C. I only wish to explain briefly here why I have stopped pursuing the matter as soon as an exemption is granted when the Very Hot Weather Warning is in force.

Deputy President, another point I wish to raise is about governance. However desirable the objective of a policy may be, it may still run into a Battle of Waterloo kind of defeat in its details. It may still run into trouble. The idling prohibition under discussion is an apt example. Actually, all of us agree to environmentalism and keeping the air clean. But when it came to finalizing and implementing the specifics and also when such information was released at the initial stage, there were many possibilities of trouble. Therefore, it is absolutely necessary to listen to the views of every sector. I understand that the Secretary has hit many hurdles in the course of rolling out this policy on banning idling vehicles with running engines. But with all our negotiations, during

which exemptions and concessions were made, the job has eventually been done. However, I must still ask the Secretary to continue to follow up the matter and put forward some supplemental measures. For example, in the New Territories, especially at both taxi and public light bus stands, covers and green areas should be made available.

Moreover, we knew at the time that The Polytechnic University of Hong Kong was conducting research on a solar-powered air-conditioning system suitable for installation on the roof of vehicles. I hope that the relevant research and development can be completed as early as possible and put onto the market. Well, the industries concerned may request the Government to provide them with subsidy for installing such an air-conditioning system. When the time comes, we may hold discussions and reason things out.

Besides, we can also observe a very large inadequacy in Hong Kong's environmental policies, one which a Member from the labour sector has also mentioned — the protection of workers performing duties under very hot weather. This of course includes protection for professional drivers. I must call upon the Secretary for the Environment and the Secretary for Labour and Welfare to follow up this issue vigorously. If they do not do so, when other environmental measures that have severe negative impacts on certain sectors are rolled out in the future, all the old disputes, talks about "stripping naked" and about "squeezing a tube of toothpaste" are bound to repeat themselves.

Lastly, Deputy President, I hope that the Secretary can seek to regulate light pollution with equal effort and time. Regarding banning idling vehicles with running engines, honestly speaking, the returns are indeed very insignificant in comparison with the political resistance. We often say that we should not avoid doing something benevolent because it is small, but this does not mean that we should forget all about handling all those major issues. Bus replacement is a very effective environmental measure. Bringing light pollution under legislative regulation is an environmental measure that is almost costless. I hope that the enactment of legislation on light pollution can be launched during the Secretary's remaining tenure of 15 months.

Thank you, Deputy President.

MS LI FUNG-YING (in Cantonese): Deputy President, a report released by a university last week indicates that the air quality of Hong Kong is on the decline. Last year, the Air Pollution Index (API) readings registered by the roadside monitoring stations at Central, Causeway Bay and Mong Kok exceeded the standards for nearly 4 500 hours, which were four times higher than those in 2006. The proportion of nitrogen dioxide in the air has shot up astonishingly from only 2% in 1998 to 13% in 2008. The continuously worsening problem of air pollution has affected the cardiorespiratory fitness of members of the public, especially those who always need to work outdoors.

Talking about the air quality of Hong Kong, the business sector complains it has a bearing on overseas investors seeking to invest in the territory, whereas the labour sector blames it for posing health hazards to employees. In May last year, I proposed a motion on "Protecting the safety and health of employees at work in inclement weather" in this Council hoping the Government could introduce legislative amendments, including a proposal on granting additional rest time to employees working outdoors in time of inclement weather or high API readings. Irrespective of what attitude we would take towards the Motor Vehicle Idling (Fixed Penalty) Bill, improving the air quality of Hong Kong is what society as a whole has been calling for. What we are concerned is whether the law can be effectively enforced to achieve the goal of improving air quality, or it will do the opposite to the effect of causing nuisance to the public while achieving nothing.

In tabling the Bill, the Government stressed that from the five-month public consultation prior to the formulation of the Bill, it was shown that the proposal had received widespread support from the public. This was also the biggest selling point that the Government had used in canvassing for the support of Members. For a consultation on banning idling vehicles with running engines which highlights the objectives of improving air quality and safeguarding public health, public support is always guaranteed. Even for sectors which would see direct implications under the policy, they would only express concern over the scope of exemption. No one is against improving air quality of Hong Kong, but this does not mean all Hong Kong people will endorse everything the Government considers desirable under the premise of improving air quality.

The Government enacts legislation to enforce the banning of idling vehicles with running engines on the grounds that "drivers leave their vehicle engines running while waiting mainly because they want to make themselves

more comfortable, and this is done at the expense of air quality". Deputy President, such a description represents an attempt to distort the reality, mislead the public and besmirch all drivers in Hong Kong, especially professional ones. If drivers only care about their comfort and have no practical needs to leave the vehicle engines idling while waiting, there is no need for the Government to introduce exemption provisions to the Bill. That the Government is willing to do so demonstrates that drivers have practical needs not to switch off the engines while waiting, instead of just caring about their comfort.

Deputy President, the reason I bring out this point is not just to seek justice for drivers in Hong Kong, but that this is a very important point in the discussion on the Bill. Only after the need of leaving vehicle engines idling while waiting have been established can we proceed to discuss whether the exemption measures in the Bill cater for the practical needs of drivers, and whether these provisions can be enforced in a reasonable and effective manner.

Deputy President, with the effort made by the Bills Committee, the Government was willing to amend the Bill to extend the exemption provisions, such as adding a three-minute grace period for drivers not to switch off engines while waiting, granting further exemptions for taxis and minibuses, and including arrangements on how exemption is implemented on days where a Very Hot Weather Warning or a rainstorm warning signal has been issued. No doubt, compared with its harsh original version, the Bill has improved with the introduction of amendments, but the worries of drivers, especially professional ones, have not been duly addressed. During the deliberations of the Bill, many Members have attempted to understand the difficulties facing professional drivers on the spot. For instance, under hot weather, there is a huge discrepancy between the temperature inside a vehicle and that outside it, with the former possibly reaching 40°C despite the non-issuance of the Very Hot Weather Warning by the Observatory. The temperatures across different districts in Hong Kong are also different. For example, the maximum temperature of 33°C or above occurs most frequently at the Hong Kong International Airport, Ta Kwu Ling and Shek Kong, averaging 56 days, 46 days and 39 days respectively in a year. Yet, the annual average tallied at Wong Chuk Hang is less than seven days.

Likewise, exemption arrangements under an amber, red or black rainstorm warning signal have been added to the Bill. Nevertheless, as these signals are issued by the Observatory based on the overall rainfall pattern of Hong Kong,

they cannot reflect the picture of individual districts. Last year, there was a time when the Observatory issued a rainstorm warning signal amid a total rainfall of less than 29 mm, and also a time when it did not do so despite the total rainfall amounting to 96 mm. Apart from the time pattern of rainfall, there is also a factor of general and isolated rainfall.

Deputy President, it is not difficult for us to image that after the legislation comes into force, professional drivers in Wong Chuk Hang who switch off their vehicle engines while waiting may still be able to brave the heat, but those in the Hong Kong International Airport may find it hard to cope with. While drivers in Central cannot switch off their vehicle engines because of the cloudy weather and heavy rain, there may be a blue sky and a bright sun in Sha Tin. Therefore, with the weather warning issued by the Observatory alone, it is difficult to enforce the law effectively.

Deputy President, I have requested the Government to grant exemptions from the law during the months with the highest average temperatures (say June to September) and rainy days, but its response is that offering further exemptions will deprive the Bill of its legislative intent. Such a reply clearly reflects the mentality of public decision makers that the primary concern of the Government in policymaking is to put their will into practice, rather than the prospect of implementing the policy effectively and its implications on members of the public. This is reminiscent of the will of officialdom that we have seen in the controversy over the Tseung Kwan O landfill. Under such a logic, if the legislation proves to be ineffective after implementation, does it mean the Government should amend the existing exemption provisions in order to achieve the legislative intent?

There are in fact many other absurd points in this Bill, too. For example, the Government assumes that vehicles running on the road have been installed with rain deflectors, which can help withstand the rainy weather on the days when the Observatory does not issue any rainstorm warning signal.

In our deliberation of this Bill today, we are faced with a grandiose premise and an Administration which has no regard for the actual situation in Hong Kong. I hold that with the existing exemption arrangements, the law can neither be enforced effectively nor achieve the objective of improving the air quality of Hong Kong. It will only cause nuisance to the public, encouraging drivers who

originally can just stop and wait to keep circulating on the road, thus making the road more congested.

Deputy President, I so submit.

DR PAN PEY-CHYOU (in Cantonese): Deputy President, Mr WONG Kwok-hing, a colleague of mine, has clearly stated the views of the Federation of Trade Unions (FTU) on the Motor Vehicle Idling (Fixed Penalty) Bill earlier.

I would like to take this opportunity to express my views on the complexity and multidimensionality of public policy. The Bill on banning idling vehicles with running engines looks simple, but it involves conflicts of interests among different groups and strata of society, as well as contradiction arising from their different orientations. This is actually a good lesson to learn.

Our society is composed of different groups with diverse occupations, ways of living and cultural backgrounds. It is not strange to see contradiction arising from the different views among groups. In fact, instead of being constant, public opinion changes over time.

I heard a Member ask earlier why the Government did not enact legislation to ban idling vehicles with running engines at the first place. I am of the view that public policy and public opinion take time to precipitate and brew. Let us use winemaking as an analogy. Can wine be churned out tomorrow by putting all the materials into the barrel today? We know that winemaking takes time. Quality wine is produced after sufficient time has been allowed for chemical reaction among such materials as yeast to take place in the barrel. The higher the quality of the wine, the longer the time it takes.

Taking environmental protection as an example, I recall that in the 1960s, nearly no one talked about it. So, when did it begin to become a topic among people? It was in the early 1970s. Greenpeace was set up in 1971 with the initial objective of opposing a nuclear test conducted by the United States in a North American area. A group of people who were concerned about the incident set up an organization in Vancouver, Canada. They deployed a ship protesting against the test. Despite being unsuccessful, the action sowed the seed for the budding of the Greenpeace movement.

Members may also be aware of a recent visit of Rainbow Warrior 2 to Hong Kong. I have taken a look at it, and I am deeply impressed by this historic green ship. After about two decades, the value of people around the world changed gradually. In the 1980s, environmental protection became a topic among many people, and Hong Kong people also began to discuss relevant issues. With the topic gathering further momentum, people began to see an urgent need to protect our living environment and make an effort to protect the atmosphere, seawater, lakes and land of the Planet Earth in the 1990s. The Kyoto Protocol adopted in 1997 even included a timetable for emissions reduction as part of the green initiatives for implementation.

This is precisely the macroclimate or macro-environment. Over the decades, the awareness of Hong Kong people has changed unconsciously under such a macroclimate or macro-environment. Twenty years ago, we did not discourage people from using too many plastic bags. When we were in the United Kingdom in the 1980s, we found that plastic bags had to be paid. We considered it strange and inconvenient, thinking that the country was so economically challenged that even plastic bags of supermarkets could not be provided. But nowadays, we are walking on the same path. So, our awareness in this respect is ever changing.

The difficulty of policymaking is that while a trend has emerged and there are pioneers who advocate it, the public may still be unaware of the need for change. But when the time is ripe, it can become a policy complete with public support.

As an environmental issue, the initiative of banning idling vehicles with running engines has also gone through the same process. It certainly involves the interests of different groups in society. The first conflict involves the interests of the general public and those of workers who make a living in the trade of transportation.

We should not forget the remarks of many Members earlier that the Secretary looks like being stripped through making concessions. Why is it perceived in this way? The Secretary makes concessions for workers in sympathy with their needs in life and work, why should he be described as being stripped? I think we should not put it this way. For workers in the trade of driving, the interior of their vehicles is their workplace. In this Chamber, we

have an air-conditioned environment in both winter and summer, and the air is made fresh after purification. But for drivers, driving on the road for 10 hours or so every day is absolutely not something comfortable. Why are they denied a workplace that is reasonable and a bit more humane? When they are offered so, why should the Government be described as being stripped? I consider this description erroneous.

On the other hand, we see that fresh air is what the general public needs. In fact, when professional drivers leave their vehicles and head home, they and their families are also part of the general public, so they also need to have fresh air and a healthy environment. Therefore, people who are not professional drivers and those who drive as their occupation do have different interests and points of view.

The next is passengers, or those inside a vehicle. Their interests are different from those of pedestrians. They expect a feeling of comfort inside the vehicle. They desire neither seats which are extremely hot, nor air which is so hot that their lungs seem to be about to explode. This is also not what we want. Similarly, we as pedestrians do not want the vehicles passing by to emit polluted air, as this will make us uncomfortable. For example, when someone smokes on the street, the smell of smoke also makes us uncomfortable. These are also conflicts of interests.

In considering the matter, the FTU has taken these conflicts as the primary factor for consideration. On one hand, as a 357 000-strong labour organization, we have as our member the Motor Transport Workers General Union, which boasts a membership of more than 30 000 or bordering on 40 000. That is a major component of our organization. Nevertheless, many of our members are engaged in other sectors. I hold that Hong Kong people, including workers, are entitled to fresh air and a fresh environment, so we support this Bill with a view to making improvement to roadside air quality.

On the other hand, according to the original draft of the Bill as initially submitted by the Secretary to this Council, there will be no way for drivers to work or make a living, which is unacceptable. In this respect, we have to defend them, such that they can have a workplace that is endurable, workable and livable in reality. This is our bottom line. As such, we have to defend the needs of workers in the trade of transportation and driving.

I really do not quite want to take the Government to task, as Members are now gearing up for the blame game to give the Government a bad name. I really do not want to do this. However, I have to point out that during the process, the Secretary has done something that has really let us down. The Secretary should recall that we initially requested to meet with him and reflect the concerns of our taxi and minibus drivers, but he turned us down. We wished to express our concerns but he refused to meet with us. This should not be the attitude of a Director of Bureau.

When did he come out to meet and talk with us? He remained unmoved until the death knell was sounded — someone had died of heatstroke inside a vehicle. Against this backdrop, he visited vehicles, taxis, minibuses and buses on the road in person to gain some first-hand experiences of the hot weather after the major solar term of "great heat" last year. We were with him throughout his stay in a taxi. We went to a taxi stand in Hung Hom, a bus station in Lam Tin and a minibus stand in Mong Kok to get a feel of them one by one. His perception might have changed as a result of his personal experience.

Therefore, we hold that the several amendments proposed by the Government on its own initiative bode well. The Administration has accepted some of the concerns of workers. Although it has not acceded to their requests in their entirety, I am of the view that all parties concerned need to make concessions for the sake of unity and harmony. At present, exemptions are available for taxi stands, over the time when passengers are boarding franchised buses, for buses and school private light buses where passengers are present, as well as when a rainstorm warning signal or a Very Hot Weather Warning is issued. These moves are made with the convenience of drivers and passengers in mind, and represent concessions and a demonstration of understanding under the premise of protecting the environment. We think this is acceptable.

That the Government has taken the initiative to propose these amendments makes us feel the Bill has addressed the needs of all parties concerned. How many concessions should be made in respect of clean air? How worse the air quality has thus become? I think these are not important issues. What is more important is that all parties concerned have identified a line that is acceptable.

I am of the view that the 7 million people in Hong Kong are really on the same boat, which is not spacious. We do not have abundant resources, and the space that each of us takes is limited. Sometimes, we need to accommodate

each other while sitting, so that we as passengers of this boat can sit comfortably and live there together.

So from my point of view, mutual understanding and accommodation is very important. Only through this can we live and work in peace and contentment. If we battle with each other, split up, cause chaos and kill one another, I am afraid Hong Kong will not have any luck. I so submit.

MS STARRY LEE (in Cantonese): Deputy President, Mr CHAN Hak-kan and Mr CHAN Kam-lam have just made known the views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) on the Motor Vehicle Idling (Fixed Penalty) Bill, or what we call the Bill aimed to ban idling vehicles with running engines, on behalf of the party. My name was mentioned in the speech of Mr CHAN Hak-kan. I am one of the DAB members who have reservations about this legislation, so I cannot but share my feeling with Members here.

We will vote on this legislation today. I will reluctantly opt to support it for two major reasons. First, the DAB supports it. Members should not perceive the DAB as working in such a patrimonial manner that whenever a decision to support a policy is made, no backtracking is allowed. This is not really the case. In our debate over the issue, a lone voice in me could not override the view of Mr CHAN Hak-kan, our environmental ambassador. Under the principle that the minority is subordinate to the majority, I have to follow the final decision of the DAB. Given that the DAB supports the legislation, I as a DAB member would also support it. This is the first point.

Second, I also agree that banning idling vehicles with running engines marks a small step in air quality improvement, albeit it being just a small step. I would also like to share with Members why I support this legislation reluctantly, and why I have reservations about it.

First, I very much doubt the extent to which the initiative of banning idling vehicles with running engines can contribute to air quality improvement. I asked our relevant policy spokesperson earlier, and he said that according to the information from the Bureau, the initiative could reduce no more than 1% of the Air Pollution Index (API) of Hong Kong. If such a great effort results in a mere 1% reduction in the API, I will stick to my view. I very much doubt why the

Government opted to table this legislation to this Council in the first place, since there was no lack of environmental initiatives that needed to be carried out. This is what Members should understand, and we have discussed many of them. By opting to table this legislation, the authorities must be of the view that it is more important and urgent than other legislations, so there is a need to enact it in this Legislative Session. I still doubt whether the resources expended by the Government, including the effort spent on drafting the legislation, the deliberations of the Bills Committee in its 10 or so meetings, as well as the huge policing effort required for law enforcement later on, are directly proportional to what will be achieved eventually. I remain unconvinced of this.

I have also asked myself repeatedly: Is it because of my low environmental awareness that I do not support this legislation? I must say that I am meticulous about environmental protection. First, I should meet the short-hair requirement mentioned by Ms Cyd HO earlier. At least I do not need to use a lot of water for shampoo every day to avoid excessive waste of water resources. I also agree to the earlier remarks of many Members that legislative enactment is not the only means to achieve environmental protection. Legislative enactment should be pursued only when all other options are exhausted eventually, so as to compel members of the public to meet relevant requirements in their everyday practice. As I believe, many Members are aware that I very often insist on going to different venues and this Council by public transport. I also believe that reducing the number of private cars or using them less can help improve roadside air quality to a certain extent. Therefore, I think my persistence in this respect should go on. I also teach my daughter not to waste water and resources unreasonably.

In fact, as to the hot issue of environmental protection, I am of the view that the key lies in the over-consumption of city dwellers nowadays. I am not aware whether Members agree this is not a popular topic. If everyone exercised constrain, and utilized resources or purchased new products only when needs arose, we would not need to put any thought in discussing the producer responsibility scheme, there would not be so many problems regarding recovery of materials, or the landfills would not saturate so soon.

Yet, there is always a clash between environmental protection and economic development. Deputy President, do you agree with it? On one hand, we aspire to encourage enterprises to innovate. If Apple Inc. had launched

neither iPhone 2 nor iPad 2, we would not have considered making a switch, right? On one hand, we seek to develop the economy, and hope that people have an innovative mindset and there are new products luring people to buy. But on other hand, these lead to many problems related to the environment and ones that we need to tackle as a result. Therefore, I hold that to protect the environment, we really need to put it into practice and should not consume overly.

Perhaps I have strayed too far. Back to this legislation, I would still hold firmly to my view. What is our objective in enacting this legislation? From what I heard from the remarks of some Members earlier and what I looked up from the records, I learn that this legislation chiefly aims at improving air quality in general and roadside air quality. I mentioned earlier that according to the estimate by the Secretary, the API would reduce by merely 1% after the passage of this legislation. Fine, be it a 1% reduction only.

But to achieve the second objective mentioned just now, that is, improving roadside air quality, I am of the view that the authorities can put forward some more effective methods for public discussion. I have thought about this, too. My constituency is Kowloon West, which includes Mong Kok, Yau Ma Tei and Tsim Sha Tsui. This is one of the areas plagued by polluted air. In Hong Kong, not many areas are so busy and crowded with pedestrians and cars. Apart from Mong Kok and Tsim Sha Tsui, there are also Causeway Bay, Central, Admiralty, Wan Chai and even Tsuen Wan. Within the party, I have put forward a proposal where a consensus has yet to be reached, that is, if the Bureau really wants to prevent members of the public from breathing in polluted air, it should pick up some locations as pilot low emission zones, where access by high-emissions vehicles is restricted or entry by private cars is prohibited. As a matter of fact, this is by no means a new concept. Why do people working in Central have to drive private cars? Why can the authorities not require all people to take public transport? Is it not more environmentally friendly?

Yet, I also understand that under the current political environment, not every member of the public recognizes these methods, nor does everyone within the DAB. However, I believe that these methods can more effectively deal with the problem of roadside air pollution currently facing us. Of course, the Government has adopted none of these methods. In my impression, the

Government has not put them forward for discussion, and it has eventually opted to ask the people to switch off the engine while waiting. I will continue to cling to the view that I mentioned. As remarked by some Members, as for the initiative to ban idling vehicles with running engines, apart from the worries expressed by professional drivers as well as relevant unions and bodies, other drivers also have different views.

What I would then like to bring out is that many unionists spoke on behalf of professional drivers earlier. I can see the point, as they need to stay in their vehicles for a long time every day, so I also understand why the Secretary has put forward this exemption eventually. But since this legislation is put forward for enactment, many friends from the middle class have asked me whether I support it and why this is so. In fact, Members should understand that while there are numerous union representatives here, those representing private car users are few. Our representatives have been shouting their voices hoarse in fighting for them, but people may not quite sympathize with them, as they do not drive very often nor need to stay in their vehicles for 10 hours a day, like what professional drivers have been doing. However, private car owners or users have told us that despite not driving very often, they will switch off the engine when their vehicles are idling where permissible, so what is the point of taking advantage of them through enacting the legislation? All groups have succeeded in their fight for exemptions, with private car owners being the lone exception. Does it in a way amount to taking advantage of the middle class? Members should consider that they have the same response to the Budget. Therefore, I hope the Secretary can pay close attention in respect of enforcement. As I understand, this legislation will be passed today, but the Secretary has to tackle the question of how to execute it with nuisance to the public kept to the minimum in future. Otherwise, I surmise that this legislation will definitely create discontent in society, as those who will eventually be taken advantage of Of course, professional drivers are also affected, but they will be partially exempted, and probably more attentive to this legislation. Nevertheless, some private car owners may drive only on holidays but not on weekdays. Should they be in a sudden slip, they will break the law and be fined, and they are unaware what other consequences will be in store for them. Therefore, it is my wish that the Secretary can consider ways to minimize nuisance to the public in respect of enforcement.

I will not use up the 15-minute speaking time. I hope the Secretary can consider what I proposed just now. What I would only like to reiterate is that, first, I remain unconvinced as to why we need to spend so many resources and manpower to introduce this legislation on banning idling vehicles with running engines first, as I am still doubtful of its real benefits in respect of air quality improvement. Second, if the same resources and effort are to be expended, I hold that the Government should pursue other initiatives, including the producer responsibility scheme. I have remarked repeatedly to the Secretary that this initiative, in my view, is more important as Hong Kong is really a city embracing consumption. As a matter of fact, there are currently a lot of products that are neither recycled nor reused, resulting in massive wastage. Given the extensive effort and thought expended on such a huge amount of work surrounding this legislation, it is my wish that there will not be any nuisance to the public when it comes to implementation. I hope that when the Secretary reports the progress, we will find that this legislation achieves much higher than what we have estimated in respect of air quality improvement. Even if this proves me wrong, I still desire that it will be so. Anyway, I wish that the Secretary can make use of the time left to seriously consider introducing other environmental initiatives, including, as I mentioned just now, the producer responsibility scheme, which I think is very important. It is hoped that the Secretary can inform us of the relevant direction and the timetable as soon as possible.

Deputy President, I so submit.

MR CHAN KIN-POR (in Cantonese): Deputy President, as the people of Hong Kong have been living here for a long time, they are used to the air quality here. However, for foreigners who are used to living overseas but have come to Hong Kong to work, they can clearly feel the bad air. I have many colleagues in my consultancy firm who are from overseas, and many have asked me to recommend to them Chinese medicine practitioners or dermatologists, very often for trachea or skin problems. They contend that air pollution is actually the biggest problem in Hong Kong. If they are given the choice, where will they prefer: Singapore or Hong Kong? Many a time, they think that other aspects are more or less the same — properties are equally expensive, so are offices. Nonetheless, the air quality in Singapore is clearly better. Thus, they keep on telling me that they very much hope that we can seriously solve the air pollution problem.

Of course, to a large extent, pollution in Hong Kong is affected by the Guangdong Province. Therefore, the Government must spare no efforts in reaching an agreement with the Guangdong Province, with the hope that concerted efforts can be made to tackle the air pollution problem. Banning idling vehicles with running engines is a contentious issue because the effectiveness is neither great nor easy to prove. However, the Government has finally managed to take the demands of the transport sector into consideration, and for this reason, I will lend my support.

However, I would like to point out that during the initial stage of the implementation of the legislation, there is bound to be lots of chaos and ambiguities, I wish the Government can conduct a review soon to see which aspects can be improved so that finally, both the people and the drivers will be happy.

Although banning idling vehicles with running engines serves not much purpose, it can to a certain extent help improve air quality. This after all is a first step. Anyway, for air pollution in Hong Kong to see substantive improvement, I believe the Secretary really has to be more daring and creative and strive for the following two initiatives which I am about to talk about.

First, we have repeated many times, and the Panel on Environmental Affairs has in fact come to a consensus, that it is hoped that the Government will squarely tackle the problem of Euro I and pre-Euro diesel vehicles. Those 20 000-plus vehicles are running on the roads every day and are in fact generating massive pollution. Many reports have pointed out that if the problem brought about by those 20 000-plus diesel vehicles can be tackled, the first mission of handling pollution in Hong Kong is completed. Surely, the biggest problem lies with the power plants. A lot has been done in this respect, and a long period of time is required to fix the problem. Regarding how to subsidize the acquisition of those pre-Euro and Euro I diesel vehicles, an issue we have always been talking about, I wish the Secretary can take on a serious attitude to have them scrapped, instead of selling them to second-hand owners which will perpetuate their emission of pungent gas to pollute the roads and impact on Hong Kong.

Second, the franchised bus companies should be subsidized expeditiously to conduct studies on how to replace their bus fleets with Euro V buses in a systematic manner. As we all know, replacing the buses cannot happen

overnight, and it takes several years to replace those over 1 000 or 2 000 to 3 000 buses. The longer we put off the replacement, the bigger the problem will be. However, to put into practice these two initiatives, I believe it has to come from the level of the Chief Executive. Nonetheless, the Secretary also has to work hard to come up with the relevant data. We hope the Secretary will understand that the Legislative Council is his working partner, and the Panel on Environmental Affairs and even the entire Legislative Council definitely wish to be his partner. We would like to work with him in pushing the Chief Executive, and give him more "teeth" to strive for the two initiatives I mentioned earlier for Hong Kong. So long as the two initiatives are completed, I believe the air pollution problem in Hong Kong will definitely see an improvement. I wish the Secretary will give them serious consideration.

(THE PRESIDENT resumed the Chair)

President, I so submit.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I hereby speak on the resumption of the Second Reading of the Motor Vehicle Idling (Fixed Penalty) Bill (the Bill). I would also take this opportunity to respond to the views expressed by the chairman and members of the Bills Committee, as well as other Members. President, I wish to give my response in four aspects: Firstly, to respond afresh to the policy objectives mentioned by many Members; secondly, to explain how to take a step forward through the resumption of the Second Reading debate on and the passage of the Bill amid first controversies then consensus regarding the Bill, as mentioned by many Members;

thirdly, to clarify whether the idling prohibition is a single measure or a basket of measures; and lastly, to respond to some of the exemptions at the Bills Committee's special request.

First of all, regarding the objective of the idling prohibition policy under discussion for years, the idea obviously comes from the high-density road traffic and crowded urban environment in Hong Kong. In city living, the emissions produced by vehicles, regardless of their types, cause plenty of direct and serious nuisances to the city as a whole and the roadside environment. Under this backdrop and aspiration, the policy of the idling prohibition aims at banning idling engines by means of legislation, so as to reduce the emission, heat and noise nuisances caused by idling engines, and provide a better environment to pedestrians on the roads, customers in the shops and the general public, in the hope that roadside air quality, especially in busy districts, will be improved. Therefore, the objective of this policy is to improve air quality, as well as reduce the nuisances to the people in urban districts. In addition to air quality, we all understand that people having activities on the roads are also a major factor of consideration.

President, many Members have mentioned that the discussion on the Bill has been ongoing for years, and detailed consultation has been conducted before our submission of the Bill to the Legislative Council in April last year. We propose that the Bill should apply to all vehicles installed with internal combustion engine, including vehicles powered by gasoline, diesel or liquefied petroleum gas, and hybrid vehicles (except that this provision will not apply to hybrid vehicles when they are driven by electric power). Since electric vehicles do not carry internal combustion engines, they will not have emissions. Hence, electric vehicles will not be included in the scope of regulation of the Bill.

President, in the Bill, we also suggest that exemptions from the requirement should be granted to different types of vehicles per actual needs. Major exemptions include providing a grace period of three-in-sixty-minutes to drivers of motor vehicles, so that drivers can avoid switching on and off their engines frequently for short period of stationary; they may as well make use of the three-minute slot to switch on the air-conditioning before driving in order to cool down cabin temperature or eliminate fogging of glass panels. This arrangement which can address the cloudy or rainy weather conditions as mentioned by Mr CHAN Kam-lam just now has been adopted by other countries

and regions. From what we learnt from our overseas field studies, we are assured that this arrangement is enforceable, thus we have included this three-minute exemption into the Bill. Other examples of traffic conditions of this kind include traffic congestion, traffic accident, stopping as directed by a traffic light, traffic sign, road marking or police officer, in a queue of taxis into a taxi stand, petrol filling station, car park, container terminal, land fill, and so on. We suggest that exemptions be granted for these traffic conditions.

In addition, pursuant to the Bill, exemptions should be granted to the drivers of various public vehicles (such as taxis, minibuses and buses) and special vehicles (such as vehicles for medical, emergency and law enforcement purposes, and security transit vehicles). The drivers of vehicles lawfully designed for purposes that require vehicle idling, such as refrigerator truck, refuse collection truck, dumping truck and truck with a tail board, will be exempted from the idling prohibition. We suggest that the idling prohibition should apply to all roads, including private roads and car parks, in the territory. Drivers who violate the above prohibition should be subject to a fixed penalty of \$320, which is the same as the penalty for illegal parking. Insofar as enforcement is concerned, Traffic Wardens will be the principal enforcement officers, and Environmental Protection Inspectors will also be authorized to enforce the law. I must stress that the effectiveness of this prohibition should be measured by the changes in drivers' driving habits in general instead of the number of fixed penalty tickets to be issued in future.

President, Members have put forward many different arguments in their speeches just now. Some have described this as a "stripped naked" process, but I think this is probably like making garment with our concerted effort to the satisfaction of all. As Members are aware, different people may have different tastes in clothes. They may have diverse views on the style and colour of the clothes, and whether the clothes can keep warm or are in line with the fashion trend. What is more, regarding environmental issues, the concept may be well received when it is first introduced, but controversies are inevitable when its specific implementation is discussed.

In the course of scrutiny of the Bill on the idling prohibition, a number of unavoidable controversies were really involved. For example, there were different views involving personal behaviour and the overall interest of society.

Just now many Members mentioned about the divisions between the stance of drivers or individual trades and the environmental improvement work in general. Some people's arguments may focus on whether this will bring less benefit or less harm — a question always raised in relation to environmental issues. Some may question whose interests should be taken account of — the people inside or outside the vehicle; or the drivers or passengers? In the process, we kept emphasizing that we did not wish to make such divisions. Rather, we hoped that we could attend to the people both inside and outside the vehicle. Not only drivers have to fulfil their responsibility, passengers have a responsibility to fulfil as well.

Many people raised queries by citing scientific statistics or based their discussions on feelings. Some also questioned about the feasible ways for implementation. Nonetheless, in the one year since April last year till today, I believe, most importantly, the Bills Committee did conduct adequate and thorough discussions with the relevant industries and the members of various social sectors in the process. Apart from exchanging ideas on the Bill originally put forth by the Government, various views were expressed in the process. Besides, we conducted site visits in various districts and invited more than once different bodies to express their views in this Council. I met with many different organizations in person and held discussions at the district level.

During the whole process, I believe not only the Government, many Members here also gained understanding of a number of issues that had come to our mind after the introduction of the Bill. Hence, they wished to improve the Bill from a pragmatic perspective. Nonetheless, during the whole process, I believe every Member or Bills Committee member had to face a question: Should this piece of legislation be enacted? If yes, we might need to make some amendments. But were the amendments fair, reasonable and practicable? During this period, people voiced their opinions clearly. No matter whether it was during the consultation, the introduction of the Bill, the heated argument or even today, we can see from public opinions in general and speeches delivered by many Members just now that they look forward to the enactment and implementation of this legislation. As mentioned by many Members, even in this Council, it has been quite some time since the proposal was raised in 2000. We have also made the people of Hong Kong aware of this proposal through a range of incentives and educational approaches. However, to what extent have

the general public fully complied with the requirement of switching off idling engines? I believe the objective of the Bill is very clear. Since the consultation last year to the enactment of the legislation today, a consensus about putting the proposal into practice has been reached.

Of course, in the process, we must propose some feasible ways to improve the enforcement of the law. In this respect, we have made some necessary amendments after accepting the opinions of many Members and the trades. I will give a detailed explanation on the exemption arrangements shortly afterwards.

However, Members asked if the idling prohibition was the only or single solution to the air pollution problem. The answer is certainly in the negative. In fact, apart from the measures brought up by Members just now, the idling prohibition is only one of the many policies to address the air pollution problem over a period of time in the past.

In fact, I have done a bit of calculation insofar as the tabling of bills is concerned. This is the seventh principal legislation tabled by me since I took office in 2007. If other subsidiary legislations are counted, the Environment Bureau has tabled a total of almost 30 legislations of this kind, of which eight are air pollution-related. I do not intend to repeat them here. In particular, insofar as air pollution is concerned, the Government has made endeavours in various aspects, such as the emission of power industry, the exhaust emission of roadside vehicles, especially buses mentioned in the latest policy address, and the designation of low emission zones. However, among these initiatives, should the idling prohibition be included in this basket of measures, so that the general public can move a step forward with us and play a part in this? I believe the answer is certainly in the positive.

On the basis of the abovementioned discussions and even arguments, I am glad that today we can proceed to the resumption of the Second Reading debate on the Bill. And I hope the Bill would be passed by Members later on.

I have to explain some of the amendments in response to the request of the Bills Committee. This time, we have made some amendments to the Bill, including extending the exemption from the first five taxis and any taxi that is in a queue of taxis to all taxis at a taxi stand. Basically, this has responded to the

requests raised by the Bills Committee. Special consideration has been given to the locations of taxi stands, in particular the large ones which are usually situated in relatively open spaces, thus having less impact on environmental pollution.

In addition, this amendment includes granting exemptions to drivers of buses (including franchised buses) and school private light buses that have any passenger on board, and franchised buses when they are available for boarding by passengers.

Another exemption will be granted on very hot or rainy days. The Bills Committee has considered that it is necessary to grant exemptions to all drivers under extreme weather conditions in the Bill. Regarding exemption arrangements for very hot weather, the Bills Committee has conducted thorough discussions and studied various proposals, including the appropriateness of granting exemptions to all drivers at designated times, such as some of the summer months. But the Bills Committee has not reached a consensus on these issues.

We think that at the current stage, it is appropriate to adopt exemption arrangements that are relatively focusing, as drivers and the public may find them easier to understand and more acceptable. In this connection, we think reference can be made to the Very Hot Weather Warning mechanism adopted by the Hong Kong Observatory for years as the basis of exemption.

After giving careful consideration to the opinions of the Bills Committee, we have suggested that exemptions should be granted to all drivers on a day when the Very Hot Weather Warning or the amber, red or black rainstorm warning signal is in force. To avoid disputes between enforcement agents and drivers over the validity of exemption due to changes in weather conditions, we have also suggested that after the warning or warning signal has ceased to be in force, the exemption should be applicable until midnight on that day. The Bills Committee has agreed to our suggestion.

Nonetheless, I must point out one thing. The Hong Kong Observatory has once explained to the Bills Committee that the Very Hot Weather Warning mechanism has been in operation for over 10 years, which aims at calling on the public to enhance their alertness, and prevent getting heat stroke or sunburn under very hot weather. This is a general and territory-wide warning, which is not

specially designed for any exemption from the idling prohibition or other specified purposes, sectors or districts. Given that the Very Hot Weather Warning is a forecast in nature, discrepancies with the actual weather conditions are inevitable. While the Hong Kong Observatory will keep abreast of the times and continue to improve the accuracy of its forecast, but similar to the weather forecast of other kinds, some degree of discrepancy is inevitable.

After listening to the explanation given by the Hong Kong Observatory, the Bills Committee has been aware that the Very Hot Weather Warning, being one of the bases for granting exemption, cannot cover all conditions that may happen as a result of the enforcement of the idling prohibition. The Bills Committee has also expressed its understanding to this point.

Besides, Mr CHAN Kam-lam talked about the enforcement arrangements on rainy days. Our enforcement arrangements in this respect will take into account drivers' actual needs. The authorities will draw up guidelines to provide that enforcement agents will enforce the idling prohibition in a tolerant and flexible manner when it rains.

Apart from the above exemptions, in consideration to a few exceptional circumstances under which drivers cannot switch off idling engines, we have suggested that the Director of Environmental Protection may exempt the drivers from complying with the requirement. To prevent abuse of the exemptions, the Director of Environmental Protection may specify the conditions suitable for granting an exemption.

For example, the Director of Environmental Protection may need to exercise the power of granting exemption for the drivers of rehabuses. Rehabuses may need to carry a number of passengers who are mobility-handicapped or unable to take care of themselves. Therefore, while waiting these passengers boarding, the drivers of rehabuses may need to keep the air-conditioning running for other passengers in the bus. Given that it is difficult to define rehabuses or vehicles serving similar purposes in law, the Bills Committee has agreed that the relevant bodies, such as the Hong Kong Society for Rehabilitation which operates rehabuses, may submit application for exemption to drivers to the Director of Environmental Protection when necessary.

President, after years of discussions and negotiations with respect to the Bill on a statutory idling prohibition, as I mentioned just now, I am very glad that the Bill reaches the final legislative stage today. Here, I particularly wish to thank all sectors for their understanding and participation in the process. Various sectors have grasped every opportunity to try their best elaborate their arguments and reasons in various aspects, so as to facilitate in-depth, adequate and rational discussions in society. In particular, I must say thank you to members in the medical and healthcare sector, as well as some bodies in support of clean air. They have given a lot of objective and scientific explanations for the improvement of roadside air quality, facilitating society to have a deeper insight and understanding of the issue. Combating air pollution is a long-term battle. Apart from the implementation of the Bill, we will continue to work on a range of other initiatives in order to further improve the air quality of Hong Kong. In addition, I have to thank drivers for their understanding and support. When the law comes into force, we hope that all drivers will fit in and make adjustments, contributing their efforts for the healthy living and clean air in Hong Kong.

I am also thankful to many people living and working near busy roads, including shop owners who run their small businesses near transport stations, or owners of roadside newspaper stalls. Their presence reminds us from time to time that improving roadside air quality is very important to their everyday life and work. Of course, I am grateful to Ms Audrey EU, Chairman of the Bills Committee, and all other Members, especially those who sweated with us during the site visits, for putting forth many valuable opinions throughout the course of scrutiny, so that we can reach a consensus and legislate on the amended provisions today. The Bills Committee has expressed its support for the resumption of the Second Reading of the Bill. I implore Members to pass the Bill as amended, so that we can make drivers quit the bad habit of allowing idling engines in stationary vehicles by means of law, publicity and education, in order to reduce nuisances to the environment.

Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Motor Vehicle Idling (Fixed Penalty) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Motor Vehicle Idling (Fixed Penalty) Bill.

Council went into Committee.

Committee Stage

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

MOTOR VEHICLE IDLING (FIXED PENALTY) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Motor Vehicle Idling (Fixed Penalty) Bill.

CLERK (in Cantonese): Clauses 1, 3, 4, 5, 7, 10, 12, 13, 16, 22 and 24 to 32.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 6, 8, 9, 11, 14, 15, 17 to 21 and 23.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move the amendments to the clauses read out just now. The amendments have been set out in the paper circularized to Members.

First of all, let me give Members an introduction of the amendment to clause 6. Having regard to the possibility that in future, there may be exceptional circumstances for which exemptions need to be granted to drivers, such as drivers of rehabuses or vehicles serving similar purposes, clause 6 of the Bill states that the Director of Environmental Protection may exempt a driver or class of drivers from the idling prohibition. The exemption may apply generally or be limited to a particular area or a particular time. To avoid abuse of the exemption, the Director may specify the conditions that he or she thinks fit when granting the special exemption. If the driver violates those conditions, the special exemption will lapse immediately.

When considering whether a special exemption should be granted, the Director will take into account whether there is a genuine need to idle the engine of a vehicle, whether there are other possible means that can avoid such idling, whether the applicant has made his best efforts to comply with the idling prohibition, and the level of environmental nuisances that will be caused. To

understand the exceptional circumstances of the districts concerned, the Director will consult the relevant District Councils when necessary.

Having regard to the opinions raised by the Bills Committee, we suggest that clause 6(1) should clearly specify that an exemption can only be granted when the Director is satisfied that exceptional circumstances exist that make it impractical or unreasonable for the driver or class of drivers to comply with the idling prohibition.

With regard to the processing of applications, as the checking of applications and the consultation with the relevant departments take time, generally speaking, we will complete the processing of an application and reply to the applicant within 30 days upon receipt of the application. In case of making enquiry with the applicant, requesting the applicant to provide further information or consulting the District Councils with respect to an application is necessary, we may need longer time to process the application. We will upload this service pledge onto the website of the Environmental Protection Department later on.

As for clause 19 of the Bill, it is stated that the magistrate, when he or she hears a complaint, has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227). The clause also imposes certain requirements on the defendant, including if the defendant does not admit the truth of the complaint at the hearing, the defendant must state the nature of his or her defence; and if the defendant does not at that time expressly put in issue any fact stated in a certificate, the defendant cannot at any later time dispute or adduce evidence to contradict that fact. The provision of the clause is the same as section 20 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237).

The Bills Committee holds the view that the magistrate hearing a complaint should be empowered to, with reference to actual circumstances, give leave to the defendant to dispute or adduce evidence regarding a fact stated in a certificate at a later stage. Hence, we propose to amend clause 19(2) and delete subclause (3) of the Bill.

In addition, we propose to make slight and technical amendments to clauses 2, 8, 9, 11, 14, 15, 17, 18, 20, 21 and 23. Chairman, the above amendments have gained support from the Bills Committee. I implore Members to support and endorse them. Thank you.

Proposed amendments

Clause 2 (See Annex III)

Clause 6 (See Annex III)

Clause 8 (See Annex III)

Clause 9 (See Annex III)

Clause 11 (See Annex III)

Clause 14 (See Annex III)

Clause 15 (See Annex III)

Clause 17 (See Annex III)

Clause 18 (See Annex III)

Clause 19 (See Annex III)

Clause 20 (See Annex III)

Clause 21 (See Annex III)

Clause 23 (See Annex III)

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

MS AUDREY EU (in Cantonese): Chairman, I speak in support of the amendments. But I wish to bring up the backgrounds of several of the amendments to place them on the record.

Chairman, first, I would like to talk about clause 6, that is, exemptions granted by the Director. To facilitate the keeping of record, I will read out the

original version of clause 6(1) in the blue bill: "The Director may exempt a driver or class of drivers from section 5 subject to any conditions the Director thinks fit." Section 5 provides for the idling prohibition, which is the core of the banning of idling vehicles with running engines. Thus, clause 6 simply gives the Director discretionary powers to exempt any driver or class of drivers from complying with this regulation.

Chairman, the Civic Party and I are of the view that in general, it is necessary to confer some discretionary powers on the relevant authorities in the law. However, such discretionary powers cannot be unchecked, nor can the scope be too broad. Otherwise, the Director will be at a loss when exercising these powers, and the people will not know the objective criteria for this exemption. Therefore, we have asked the Administration to consider adding some objective requirements and slightly narrowing the scope. After discussion, we now come up with the amendment proposed by the Secretary, specifying the need for "exceptional circumstances". Under what circumstances will a driver or class of drivers be exempted? They will only be exempted if it is impractical or unreasonable to ask them to comply with the idling prohibition. In the way, everyone will know the relevant circumstances and the threshold.

Moreover, as mentioned in the Secretary's earlier speech as well as in my speech delivered during the resumption of the Second Reading debate on the Bill, the purpose of this exemption is to cater for people who have special needs. For example, when people with certain health problems are on board a vehicle, they have a need for air-conditioning. Under such circumstances, we think the authorities should consider granting exemption to them on health grounds.

But we have also noticed that all prohibitions or exemptions are targeted on drivers instead of vehicles. In other words, many a time, it is the passengers rather than the drivers who need air-conditioning. Therefore, when considering applications from vehicles such as rehabuses, the authorities should grant exemption to the drivers or class of drivers. The authorities need to make some slight adjustments in enforcement. Apart from the performance pledge mentioned earlier, the law-enforcement department also has to understand that under such circumstances, the drivers or class of drivers concerned should be given appropriate exemption.

Chairman, I would also like to point out that a number of examples are set out in Schedule 1 to the original blue bill specifying under what circumstances and what kinds of vehicles can be exempted. Examples 1 to 5 are set out under section 7 of Schedule 1 (vehicles necessarily idling for certain purposes). This is provided in the blue bill originally submitted by the Government, which is actually something new. Although the use of the term "for example" is sometimes found in the existing legislation, the authorities have never given a number of examples in a bill. Moreover, there is a provision in the Bill stating that such examples only serve as demonstration purpose and cannot override the relevant provisions. In other words, when interpreting the examples, we can only construe them as an explanation for the provisions, and the provisions cannot be overrode.

Chairman, when coming across this approach of law drafting, I have a few worries. First, while the authorities have stated that the provisions are overriding, they give examples as well, which may lead some people to think that their conditions match with those referred to in the examples warranting exemptions, and only to discover afterwards that the related provisions override the examples, thus creating confusion and containing misleading elements. The general public may regard their vehicles as vehicles referred to in the examples, without realizing that the provisions are overriding and the examples may even end up not applicable to them.

Chairman, you should also understand that in the process of scrutinizing a bill, many Members will very often make proposals and give a lot of examples, asking the Government to explain whether these examples fall into the situations referred to in a particular bill or whether those examples fall into the scope of exemption, and whether certain examples apply. Under such circumstances, government officials will in general state that the interpretation of the provisions will be left with the judges in future. But they will indicate the examples should fall into the scope of the provisions or otherwise. They will not include the examples given by Members into the provisions. However, once a precedent is set, examples will be included in the legislation without constraint. I am worried that when scrutinizing a bill in the future, every Member will raise some examples and ask the authorities to include them in the provisions to avoid ambiguities. Then, they can put up banners to claim that they have successfully

strived for the inclusion of a particular example into the provision. The scrutiny of a bill will then see no end. Finally, a lot of confusions will be created regardless of whether the provisions or the examples are overriding.

Law drafting is after all a specialized process. Once the approach of giving examples is adopted, some consequences are bound to follow. Chairman, in this connection, I have discussed with the Law Draftsman over some issues, and he has given me a report as reference. He said that according to studies in some countries, in particular Australia and New Zealand, people in general welcomed the use of examples in law enactment because examples were easier to understand than provisions, and so they considered this practice desirable. However, at the same time, the report pointed out that when these countries consulted the opinions of the judges, many were against the use of examples in law enactment because this would cause confusion and make the legislation more complex and confusing. When interpreting legislation, there are always some principles which we all accept, but once we exemplify legislation, it will give rise to some legal consequences. Therefore, I have had discussion on this issue with the Secretary for Justice, the Law Draftsman and the Secretary. Since this Bill itself is already very controversial, and it has gone through a lengthy scrutiny since last April, if we use examples to draft certain exemptions in the Bill, I am afraid this will lead to more disputes. In the end, the Government, the Secretary for Justice and the Law Draftsman inclusive, have accepted this opinion and stated that as far as this Bill is concerned, using a large amount of examples as a part of the legislation might not be desirable.

Incidentally, Chairman, I am aware that the Law Draftsman has a lot of good and innovative ideas which he hopes to put to trial in the legislative process. In some other legislation, we can see that problems sometimes do crop up. With regard to this way of drafting, I hope the Government can first have detailed discussion with the judicial committee, or even hold such discussion before tabling the blue bill to the Legislative Council, rather than for us to discover these new ways of drafting only upon receipt of the blue bill. Even the Legal Service Division of the Legislative Council finds them disputable. Regardless of whether considering from the angle of the relationship between the Executive and the Legislature, or the angle of the efficiency of the scrutiny process, it is hoped that both sides can have more communication and co-operation.

Chairman, regarding these amendments, I wish to state clearly the views of the Civic Party. Overall, we support these amendments. We are also grateful that during the legislative process, the Government and the government officials concerned have accepted the views of the Bills Committee and proposed the relevant amendments. Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for the Environment, do you need to speak again?

(The Secretary for the Environment indicated he did 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 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): Clauses 2, 6, 8, 9, 11, 14, 15, 17 to 21 and 23 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses 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): New clause 33 Consequential amendments.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move the Second Reading of new clause 33. The new clause has been set out in the paper circularized to Members.

New clause 33 has two objectives. Firstly, it aims at making the Bill fall under section 113C(1)(c) of the Criminal Procedure Ordinance (Cap. 221) which sets out the levels of fines by the amount of the fine and specifies that those levels do not apply to any fixed penalty within the meaning of the specified fixed penalty ordinances.

Secondly, it aims at making the Bill fall under section 2(1B) and (3) of the Rehabilitation of Offenders Ordinance which provides protection for rehabilitation to individuals who should make payment or subject to the recovery of a fixed penalty, or any additional penalty, under the specified fixed penalty ordinances.

Chairman, this new clause has gained support from the Bills Committee. I implore Members to support this clause. Thank you.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 33 be read the Second time.

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 new clause 33 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.

(No hands raised)

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

CLERK (in Cantonese): New clause 33.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move that new clause 33 be added to the Bill.

Proposed addition

New clause 33 (see Annex III)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 33 be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule 2.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That Schedule 2 stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule 1.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move the amendments to Schedule 1 to the Bill. The amendments have been set out in the paper circularized to Members.

First of all, let me give Members an introduction of the amendments to section 2 of Schedule 1. The amendment to subsection (1) concerns the exemption arrangements for taxi drivers. Our original proposal is that according to the current "switching off idling engines" guidelines for the transport trade, exemptions should be granted to the first five taxis at a taxi stand, all taxis which are in a moving queue for picking up passengers, and taxi drivers while passengers are boarding or alighting. All taxi drivers will also be entitled to the three-in-sixty-minutes grace period and other exemptions applicable, such as the exemption from the idling prohibition while their taxis are in a queue moving into a taxi stand or petrol filling station.

Having regard to the requests of the Bills Committee and the taxi trade, the operation of taxi stands and the distance that generally exists between large taxi stands and the pedestrians and shops nearby, we propose that section 2(1) of Schedule 1 be amended in order to grant exemption to the drivers of all taxis at a taxi stand.

Section 2(4) of Schedule 1 to the Bill concerns the exemption arrangements for the drivers of non-franchised buses. We have originally suggested that exemptions should be granted to non-franchised buses with passengers on board. These buses are usually used as tourist coaches, while some are used as school buses. Given that most of these buses have sealed window design, they must provide air-conditioning for passengers to maintain proper ventilation. Having regard to the opinions of the Bills Committee and basing on the same principle, we propose that section 2(4) of Schedule 1 be amended, so that exemptions will similarly be granted to drivers of buses and school private light buses with passengers on board. Also, we propose to add subsection (4A) to the provision, so as to exempt the drivers from the prohibition at any time when the franchised bus is available for boarding by passengers.

Section 8 of Schedule 1 allows drivers to idle a vehicle when testings and repairs are conducted for the purpose of complying with a requirement under section 77B of the Road Traffic Ordinance (Cap. 374) or the Air Pollution Control (Vehicle Design Standards) (Emission) Regulations (Cap. 311 sub. leg. J).

Apart from the above two ordinances, motor vehicles may be required to conduct emissions testing under other laws. In consideration to these circumstances, and to avoid making the necessary amendments from time to time in future pursuant to the changes in other relevant laws, we propose that section 8 of Schedule 1 be amended, so as to cover all provisions of the Road Traffic Ordinance (Cap. 374), the Air Pollution Control Ordinance (Cap. 311) and the Noise Control Ordinance (Cap. 400).

We propose to add section 9 to Schedule 1 to the Bill, the objective of which is to suspend enforcing the idling prohibition on any days when the amber, red or black rainstorm warning signal, or the Very Hot Weather Warning has been issued by the Hong Kong Observatory. I have already explained this proposal in detail during the resumption of the Second Reading debate on the Bill.

Lastly, I propose to make slight and technical amendments to subsections (5) and (7) under section 2 of Schedule 1 to the Bill. Chairman, these proposals have also gained support from the Bills Committee, thus I implore Members to support and endorse these amendments. Thank you.

Proposed amendment

Schedule 1 (See Annex III)

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

MR KAM NAI-WAI (in Cantonese): Chairman, the Democratic Party supports the amendments to Schedule 1. I would like to briefly explain why the Democratic Party supports the amendments which include such broad exemptions.

At the outset, we have expressed the hope that the purpose of this legislation is to nurture the habit of switching off idling engines among the people. During the discussion of the Bills Committee, many colleagues proposed different kinds of amendments. For example, section 2 of Schedule 1 concerns taxi stands. I sometimes think that when contemplating these amendments in the office, the Government The Bill originally prescribed that the first five taxis at a taxi stand could be exempted. But difficulties will be encountered when it comes to actual enforcement at the entire taxi stand because we have to count the first five taxis but not the sixth to be exempted. Therefore, the Democratic Party has proposed that all taxis within the taxi stand should be exempted so that the message will be clearer when it comes to actual enforcement and the people will find it easier to understand.

At that time, we have also pointed out that although drivers are required to switch off idling engines at the taxi stands, some stands are without the so-called covers. During the discussion on this issue, we have expressed our hope that if possible, the Government should put up additional covers or shades at all taxi stands or minibus stands. However, according to the present figures, for taxi stands with over 10 spaces, only about 16, that is, 30% have covers or shades. This is a very small figure. I hope that apart from passing the legislation on banning vehicles with running engines, the Government should also put up as far as possible additional covers or shades at these taxi stands or minibus stands. It would be even better if passengers as well as taxis can have a cover.

In addition, the two major points in Schedule 1 are in fact the addition of the provision regarding rainstorm warning signals and the Very Hot Weather Warning. Take the latter as an example. In 2009, the Warning was issued on 40 days, and I will not count the days when a rainstorm warning signal was in force. In other words, the number of days when the Warning was issued has accounted for more than one tenth of 365 days. Why do we think that this should be handled more leniently? Following the principle mentioned earlier, we contend that it is better to be lenient than stringent. It is also hoped that the law can be enforced first.

I remember Ms Starry LEE said earlier that she had some reservations about this Bill. Frankly speaking, it is very sad that Members of the Legislative Council do not have any active power to enact law. If we do so, I will definitely

agree to legislate on the producer responsibility system, the update of Air Pollution Index, the setting up of low emission zones, and so on. In fact, we have come to a consensus on these issues. It is hoped that the Government can put them into practice as soon as possible. As regards banning idling vehicles with running engines, it is the hope of the Legislative Council for a decade that the Government will put it into practice. However, the Government only does so in the 11th year, which is a very slow progress indeed. Therefore, we hope that the idling prohibition can be implemented soon, and that this legislation can be passed soon so that a small step forward will be taken for environmental protection, climate change and air pollution.

Thank you, Chairman.

MS MIRIAM LAU (in Cantonese): Chairman, granting taxi stands a blanket exemption, that is, from exempting the first two taxis as originally proposed by the Government to five subsequently, and thereafter a blanket exemption, I maintain that it is for the actual operation of the industry instead of easier law enforcement by the police. I believe after two visits to taxi stands, the Secretary has concluded that if exemption is restricted to a subjective number, the industry will in fact face great difficulty when operating at taxi stands.

Perhaps I will not talk about problems at taxi stands here, and see if further improvement is required after letting it run for a period of time. But I have to thank the Secretary for eventually accepting the demands of the industry and understanding the actual operational needs of the industry. Here, I would like to say that currently, there are 464 taxi stands and 725 minibus stands in Hong Kong. Arrangements acceptable to the general public have been in place at these stands. Nonetheless, our community is ever improving and ever changing. At present, apart from the formal taxi stands and minibus stands, many spots have in fact informally become taxi stands or minibus stands. If the Secretary still remembers, we made a trip to Tai Po the other day to specially visit a spot where, though not a formal taxi stand, people very much like to get on a taxi there. The industry is very worried that if these spots are ignored, taxis will not be exempted when they operate at these informal stands in the future. Thus, I subsequently contacted the Transport Department and the industry collected for me information

about these informal taxi stands and minibus stands at different spots all over Hong Kong Island, the New Territories and Kowloon. I sent the information to the Transport Department and asked them to seriously consider allowing these informal stands to become formal ones so that operators of the transport industry can enjoy the exemption from the idling prohibition.

Unfortunately, as a start, I wish to tell the Secretary that among the more than 100 informal taxi stands, we have been told that only four can be turned into formal taxi stands. If the situation sees no improvement, I believe the problem will not go away. I would like to add that it is not taxi drivers but the people who have turned those spots into informal taxi stands by taking taxis there. We have noticed that no taxi drivers are willing to queue up at some taxi stands because people do not like taking taxis there. There are no passengers for taxi drivers at those stands. However, some passengers will wait for taxis at some spots, thereby giving rise to some informal taxi stands. This is the same case for minibus stands. If the problem is left unresolved, the public will not change their travel habit and still wait at those spots; and taxi drivers also will not change their habit of serving the public and still pick up passengers at those spots. If there is no solution, I am afraid problems will arise whether the law is enforced or otherwise in the future. If the law is enforced, I believe it will cause much resentment; if the law is not enforced, it will attract a lot of criticism. Therefore, we must make use of the six months before the legislation coming into force to work together with the environmental department, the transport department and the industry to clarify how these stands are to be handled, so that the industry can obtain some appropriate arrangements. Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for the Environment, do you need to speak again?

(The Secretary for the Environment indicated he did 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 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): Schedule 1 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That Schedule 1 as amended stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

MOTOR VEHICLE IDLING (FIXED PENALTY) BILL

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the

Motor Vehicle Idling (Fixed Penalty) Bill

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Motor Vehicle Idling (Fixed Penalty) Bill be read the Third time and do pass.

Does any Member wish to speak?

MS LI FUNG-YING (in Cantonese): President, I would like to talk about the direction of voting I will take later.

President, I will vote against this Bill. Why do I vote against it? I have made myself very clear in my earlier speech. Not only do I feel I have to seek justice for the transport sector because they still have many worries remained unresolved, but more importantly, if some exemptions under this Bill are enforced purely according to the black rainstorm warning signal or the weather forecast issued by the Observatory, the legislation is practically very difficult to be enforced. As such, a number of colleagues have suggested in their speeches earlier that leniency is required. If a piece of legislation to be enacted is difficult to be enforced, I think it is self-contradictory when we proceed to enact the legislation on the one hand, and request for leniency on the other. Under such circumstances, I am very doubtful of the effectiveness of this legislation. I also think that it is difficult to be enforced. Therefore, I will vote against it. Thank you, President.

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

MR KAM NAI-WAI (in Cantonese): President, the Democratic Party is supportive of this Bill. We have already talked about our stance earlier in the resumption of the Second Reading debate.

Let me briefly respond to the issues raised by Ms LI Fung-ying just now. Actually, the fact that our request for some leniency in the enforcement of the legislation does not mean that it cannot be enforced. I always quote an example, if Member can still remember it. It is the smoking ban implemented earlier. What I refer to is not the legislation on the smoking ban in public areas, but the smoking ban in lifts. It is very difficult for this piece of legislation to be enforced. Can the law-enforcement agent just go into a lift to issue a summons and fine of \$5,000 to the offender?

The main purpose of this legislation is to cultivate a habit among members of the public. What problems will arise if the law is actually enforced? In fact, the Democratic Party hopes that the Government will come back to the Legislative Council to have preliminary discussion after one year to see what difficulties and inadequacies are found in the actual enforcement of the legislation. I think this will be a more appropriate way of doing things.

So, I reiterate that the Democratic Party is supportive of the Third Reading of the Bill. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Motor Vehicle Idling (Fixed Penalty) Bill be read the Third time and do pass. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Motor Vehicle Idling (Fixed Penalty) Bill.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Ms Miriam LAU will move a motion under Rule 49E(2) of the Rules of Procedure to take note of Report No. 14/10-11 of the House Committee laid on the Table of the Council in relation to the Minimum Wage (Criteria for Approved Assessors) Notice and the Minimum Wage (Assessment Methods) Notice.

According to the relevant debate procedure, I will first call upon Ms Miriam LAU to speak and move the motion, and then call upon the Chairman of the Subcommittee formed to scrutinize the subsidiary legislation concerned to speak, to be followed by other Members. Each Member may only speak once and may speak for up to 15 minutes. Finally, I will call upon the public officer to speak. The debate will come to a close after the public officer has spoken, and the motion will not be put to vote.

PRESIDENT (in Cantonese): Members who wish to speak will please press the "Request to speak" button.

I now call upon Ms Miriam LAU to speak and move the motion.

MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE

MS MIRIAM LAU (in Cantonese): President, in my capacity as Chairman of the House Committee, I move the motion as printed on the Agenda in accordance with Rule 49E(2) of the Rules of Procedure in order that Members may debate the Minimum Wage (Criteria for Approved Assessors) Notice and the Minimum Wage (Assessment Methods) Notice as found in Report No. 14/10-11 of the House Committee to study subsidiary legislation and other instruments.

Ms Miriam LAU moved the following motion: (Translation)

"That this Council takes note of Report No. 14/10-11 of the House Committee laid on the Table of the Council on 2 March 2011 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Minimum Wage (Criteria for Approved Assessors) Notice (L.N. 1/2011)
(2)	Minimum Wage (Assessment Methods) Notice (L.N. 2/2011)"

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

MR TAM YIU-CHUNG (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Minimum Wage (Criteria for Approved Assessors) Notice and Minimum Wage (Assessment Methods) Notice, I now report to the Council on the deliberation of the Subcommittee.

The relevant Notice specifies the four kinds of persons who are eligible to become approved assessors, of whom a vocational rehabilitation practitioner is required to obtain a recommendation from a recognized organization. Some members are concerned that among these four kinds of persons, only the

vocational rehabilitation practitioners have to comply with this provision, and they are of the view that the requirement should be abolished.

The Administration has said that the requirement of holding a valid registration or practicing certificate under the relevant Ordinances applies to the categories of registered occupational therapists, registered physiotherapists and registered social workers, but vocational rehabilitation practitioners are not required to hold a valid registration or practicing certificate, and they are required, instead, to obtain a recommendation from a recognized organization.

Some members are of the view that if the requirement for obtaining a recommendation is not abolished, relevant trade unions should also be allowed to make recommendations. The Administration has advised that any organization (including a trade union) which provides relevant services can become a recognized organization.

A member has suggested that if a vocational rehabilitation practitioner who cannot obtain the recommendation of a recognized organization should be allowed to use his performance appraisal report as a substitute for the recommendation. The Administration has advised that the past performance appraisal reports of the vocational rehabilitation practitioner may not sufficiently and accurately reflect his suitability for undertaking the duties of an approved assessor.

A member takes the view that in the event that a recognized organization engaging a vocational rehabilitation practitioner refuses to recommend him to become an approved assessor, the vocational rehabilitation practitioner should be allowed to refer the case to the Labour Department for assistance. The Administration has explained that if requests for assistance of such a nature are received, it will contact the recognized organization concerned to follow up as appropriate.

Some members are concerned whether assessment can be conducted by an approved assessor who works in the same organization as the persons with disabilities to be assessed. The Administration has advised that it is incumbent on the approved assessor to ensure that no conflict will arise between his duties involved in conducting the assessment and his other interests, and as such approved assessors are not allowed to conduct assessments for persons with disabilities who work for the same employers of the assessors.

A member is of the view that the relevant Notice should have provisions to require an approved assessor to advise on the provision of aiding equipment by the employer to the person with disabilities. The Administration has advised that it will highlight in the administrative guidelines for approved assessors that an assessor may make suggestions on the aiding equipment to be provided by the employer to facilitate the person with disabilities to demonstrate his full potential in the productivity assessment.

Members are very concerned about the details of the administrative guidelines for productivity assessment, and have reviewed the draft outline of contents of the administrative guidelines and the draft certificate of assessment. Members have noted that the preliminary draft of the administrative guidelines for approved assessors is expected to be available in March this year. At the request of the Subcommittee, the Administration has undertaken to provide the Panel on Manpower with the administrative guidelines for approved assessors and the relevant forms contained therein.

Some members take the view that a mechanism should be provided for appeal against the result of an assessment. The Administration has advised that since Hong Kong has no experience in the implementation of statutory minimum wage, particularly the productivity assessment for persons with disabilities, the Administration will review the special arrangement for persons with disabilities, including whether there is a need for an appeal mechanism, within two years of the implementation of statutory minimum wage, and report the findings to the Panel on Manpower.

President, I will now express my views, and the party's views on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB).

Regarding the legislation on minimum wage, the purpose of these Notices is to protect the workers and ensure that they can obtain a reasonable wage for contribution of their labour. The DAB is of the view that persons with disabilities should have the same protection under the law as the able-bodied. Now, we see that there is simply not much difference in the working ability of most persons with disabilities employed in the open market as compared with the able-bodied. For example, the physically-handicapped engaging in clerical work or the hearing-impaired engaging in manual labour perform no less satisfactory than the able-bodied, and so they should enjoy equal pay for equal work. However, we also understand that it is undeniable that some persons with

disabilities may not attain the same level of productivity as the ordinary employees due to their physical and functional defects, and there is also a disparity of productivity for different disabled groups engaging in different types of work. As such, if the minimum wage law is implemented across the board, it is most likely that persons with disabilities whose ability is less satisfactory than the ordinary employees will be deprived of job opportunities. During the enactment of the principal legislation last year, an assessment mechanism has been put in place to determine the wage of persons with disabilities according to their productivity so as to protect their employment opportunity and remuneration level. The DAB is supportive of such a mechanism. We also see that an overwhelming majority of the rehabilitation organizations and parents' groups also support this arrangement.

To ensure that the assessment mechanism is fair and effective, I think we should particularly attach importance to three aspects. First, it is about the number and appointment of assessors. Assessment of working ability is a very great challenge to some persons with disabilities, especially the mentally-handicapped and the ex-mental patients, who are more resistant to new environment and strangers due to their cognitive ability and mental state. If they are allowed to choose a vocational rehabilitation practitioner whom they are more acquainted with to be their assessor, it will be helpful to them in demonstrating their working ability to a fuller extent. So, among the four kinds of persons specified in the Notice whom can be appointed as assessors, apart from the three types of registered professionals, I think recognized non-governmental organizations and self-help groups for persons with disabilities should be encouraged to recommend more vocational rehabilitation practitioners to become approved assessors, so that persons with disabilities who intend to be assessed will have more choices. In order to encourage more eligible persons to register as approved assessors, the Government should exempt their registration fees and renewal fees to avoid giving them additional burden.

The second point is on the initiation arrangement for the assessment. During the course of discussion on the principal legislation, the Government has reaffirmed time and again that the right to initiate assessment rests with persons with disabilities instead of employers. Whether this arrangement can really be implemented hinges on the assistance given by the approved assessors, who have direct contact with the persons with disabilities intending to be assessed. The Government should, therefore, afford them the responsibility to remind employees to be assessed of the right they are entitled to. To achieve this,

approved assessors should not conduct assessment for any persons with disabilities whom their employers are prepared to employ.

Third, it is about the methods and procedures of assessment. Up till now, the Government has not yet drawn up all the details for the assessment methods. Only some general principles have been set out. There are many kinds of disabilities. Some persons with disabilities will achieve a higher level of working ability if they are allowed to use aiding equipment. How can the help of aiding equipment be introduced in the assessment? How can the performance of persons with disabilities be compared with that of other employees? These methods and procedures are directly related to the amount of wage that persons with disabilities should receive. As such, the Government must expedite the formulation of the administrative guidelines for assessment and provide training for approved assessors so as to ensure the objectivity and validity of assessment results.

President, lastly, I wish to point out that the minimum wage regime will be fully implemented on 1 May, which is just a month or so from now. From either these two Notices or the overall state of preparation, I have found that many things are still lagging behind and need to go real fast to catch up.

Since the remuneration package for employment has all along been calculated on the basis of a monthly salary in Hong Kong, but the minimum wage regime is based on an hourly wage, many controversies will arise from the computing of meal time, days off and standby time as remuneration. Regrettably, nothing as to how to deal with these problems is mentioned in the Statutory Minimum Wage: Reference Guidelines for Employers and Employees which is still at the drafting stage. The Government has just found a pretext, saying all this should be determined by employers and employees by means of a contract. Actually, the Government cannot evade this problem as all government departments are now outsourcing their services and the relevant employment conditions are stipulated in accordance with the standard contract prepared by the Labour Department, which has not clearly spelt out whether rest days will be paid or not. When the services contractors have recently tried to discuss with the government departments the contractual arrangements under the new legislation, the departments have just kept on stalling as they are still awaiting the guidelines from the Financial Services and the Treasury Bureau to

gain an understanding of how to deal with the problem. The Government's attitude towards the employment terms and conditions of outsourced workers will have an exemplary effect. So, I hope that the Government can draw up the guidelines as soon as possible to ensure that all outsourced public services will not be affected and to set a good example for the business sector to enhance the protection of the interests of employees.

Another point I wish to mention is that we are a bit worried about the difficulties faced by the management of private buildings. Currently, there are 118 000 workers engaging in property management, security and cleaning services with an hourly wage of less than \$28. Among these workers, more than half of them are working in single block buildings or small housing estates, and some of them get an hourly wage of only \$20 or even lower. A major part of the general expenditure of these single block buildings or small housing estates is used for employing security guards and hiring cleaning services. Our survey conducted at the district level has found that the overall expenses of these types of buildings will rise by 20% to 40% as a result of the implementation of the minimum wage regime, and they cannot help but prepare to increase the management fees. This will bring about three problems. First, the property management companies will take advantage of the situation to benefit themselves; second, fee increases, though necessary, will be objected by the residents due to a lack of understanding; third, instead of benefiting from the new regime, some existing management workers will lose their jobs. The solution to the first two problems is the Government's enhanced publicity to explain the effect of the legislation on the actual expenses incurred, so as to make the residents understand and prevent the management companies from taking advantage of the situation. As for the affected workers, I urge the Government once again to set up a short-term unemployment grant — the DAB has also repeatedly raised this point with the Financial Secretary. In addition, the Government should also make the best use of all the existing social security measures to facilitate early intervention, so as to assist the affected employees in tiding over their difficulties.

I so submit. Thank you, President.

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

MR IP WAI-MING (in Cantonese): President, the Minimum Wage Ordinance (MWO) will come into effect on 1 May this year. The employment arrangement for persons with disabilities under the MWO has all along been one of the issues of concern to the Hong Kong Federation of Trade Unions because the minimum wage may hamper the employment opportunity of persons with disabilities in the job market if the issue is not handled with care. Following repeated discussions, the authorities have decided that persons with disabilities and their employers may opt for one of the following two methods: One is to employ persons with disabilities according to the minimum wage level; the other is to pay the disabled employees a wage level on the basis of their assessed ability determined through a productivity assessment, and the right to initiate such an assessment rests with the disabled employees.

These Notices specify the relevant criteria and methods for an assessor for the productivity assessment. The Notices state that four kinds of persons are eligible to be approved assessors, including registered occupational therapists, registered physiotherapists, registered social workers, and veteran vocational rehabilitation practitioners recommended by organizations specified by the Commissioner for Labour. These persons are required to have the relevant experiences and qualifications as well as receive training before they can become assessors.

During the discussions at the Subcommittee on Minimum Wage (Criteria for Approved Assessors) Notice and Minimum Wage (Assessment Methods) Notice (the Subcommittee), we are particularly concerned about the fourth category of eligible persons since they have to be recommended by their organization and meet the requirements for lengths of service and relevant experiences before they can become assessors. As regards this category of persons, I think they have already had rich experiences and professional qualifications, and the Government has also set a very stringent requirement for lengths of service. For instance, they are required to have 10 years' experiences, of which five years are spent in the provision of vocational rehabilitation services in relation to the employment of persons with disabilities. As such, I have pointed out at the Subcommittee that these persons should actually be allowed to apply in their personal capacity without the need to obtain a recommendation of an organization. This is because experiences and qualifications cannot be fake, but other factors particularly human factors, may be involved if a recommendation of an organization is required. However, the Government has only responded finally that the authorities will from time to time update the

number of the recognized organizations and the scope of recommendation will then be expanded. For instance, recommendations from trade unions or other organizations will be added. Frankly speaking, I am not too satisfied with this response. I maintain that if these persons can meet the requirements, and their performance and conduct in future are subject to the regulation of the Labour Department, it is actually all right for them to become assessors in their personal capacity. I hope the Government will take note of this point and make improvements at an appropriate time.

President, another issue of concern to the Subcommittee is the assessment criteria and how to maintain the fairness of the assessment. As pointed out by some colleagues at the meeting of the Subcommittee, given that the type and nature of jobs for persons with disabilities are multifarious, an assessor may not have a comprehensive and clear knowledge of the requirements, skills and work standards demanded by some of the jobs. Take the assessment of a disabled employee engaging in sewing clothes as an example. An assessor may be required to know the skills of sewing, how the employee should sew, and whether the sewing skills can meet the standard, and so on, which are actually not easy to be judged by the assessor. As such, we think that it is very important for the authorities to give support and guidelines. The Government should clearly explain these issues in the training for assessors, and provide them with support. In addition, we are of the view that the assessment criteria are being formulated at a pace too slow, which should have been issued long ago — the ensuing problem is: What the complaint and appeal mechanism should be in case there are doubts about an assessment.

Now, the Government refuses to set up an appeal mechanism on the grounds that the situation after 1 May remains unknown, about which we have reservations. As there are many unknown and unpredictable situations, we think the Government should have more measures in place to protect and support disabled employees who have been left in a disadvantaged position. Therefore, I hope the Government will forthwith examine the relevant problems following the MWO coming into effect on 1 May to improve the mechanism, so that employers and employees can lodge an appeal in the event of any doubt about an assessment.

President, finally I want to talk about the situation of disabled employees under the minimum wage regime. We hope that the Government and the Labour

Department will pay serious attention in this regard. In a recent newspaper report, the disabled employees of a fast-food chain complained that they had been warned by their superiors that should they receive assessment, they must not be too "smart" when undergoing the assessment so that the company would not need to pay them more wages as a result of their high level of performance. Despite the fact that the fast-food group concerned subsequently made clarifications, the incident illustrates that it does not mean that employers have no power to influence though the disabled employees have the right to initiate the assessment mechanism. In fact, if an employer refuses to employ a disabled employee, he can find numerous reasons. But it will not be that easy for a person with disabilities to find another job if he loses the existing one, which will also bear a negative effect on his mental and emotional state. As such, very often, they will submit to some unreasonable demands so as to keep their jobs.

As such, President, we are of the view that it is of paramount importance for the authorities to monitor the whole assessment mechanism. Meanwhile, the Government also needs to put in place a set of long-term policies on the employment of persons with disabilities, such as the employment quota for persons with disabilities, which are also the long-standing aspirations of persons with disabilities. However, the Government has all long evaded this problem and failed to set an example by implementing the relevant policies in governmental agencies or public organizations, nor has it promoted these policies to the business sector, thus leading to an extremely high unemployment rate of persons with disabilities, and making them more susceptible to exploitation as a result of the need to keep their jobs. If the Government does not do enough to monitor the situation, we think this mechanism may become nothing but an empty shell in future.

I hope the Government will take this opportunity of the implementation of the minimum wage to seriously consider the problems currently faced by persons with disabilities in the labour market and seek a long-term solution for them in order to protect their labour interests. Concurrently, we also request the Secretary to continue to report to the Legislative Council the situation regarding the productivity assessment, so that the Panel on Manpower can follow up and address to the relevant problems.

President, I so submit.

MR WONG SING-CHI (in Cantonese): President, the Legislative Council completed scrutinizing the primary legislation of the Minimum Wage Ordinance in July last year and debated three related Notices in January this year. Today, we finally come to the stage where the Minimum Wage (Criteria for Approved Assessors) Notice and the Minimum Wage (Assessment Methods) Notice will be discussed. The discussion of these two Notices today signifies that the various kinds of preparation work for the formal implementation of the minimum wage on 1 May is near completion. The Democratic Party hopes that the implementation and enforcement of the minimum wage will proceed smoothly in future, so that grass-roots employees in need can really be benefited.

Returning to the main theme, the subject matter under discussion today is the Minimum Wage (Criteria for Approved Assessors) Notice and the Minimum Wage (Assessment Methods) Notice. As we all know, persons with disabilities are the comparatively underprivileged group in our community. According to recent press reports, disabled employees of a fast-food chain have complained about their supervisors warning them not to be too "smart" when undergoing assessment, lest the assessment results would conclude that they be paid the minimum wage rather than the wage for disabled employees, in which case they might lose their jobs. This is what I have read in the newspapers, which leaves some disabled employees with the dilemma of keeping their jobs or their pride. How come we have such a situation in Hong Kong? Disabled employees are caught on the horns of a dilemma. If they do not "voluntarily" undergo the productivity assessment, employers who are unwilling to pay the "standard rate" (the minimum wage) may dismiss them on other pretexts. On the other hand, if they agree to undergo the assessment, the relevant assessment may certify that their productivity only reaches a certain level and render them receiving a wage lower than their original one. In which case, the Democratic Party is afraid that a series of chain reactions may be resulted. Hence, we believe the general public should keep a close watch on the development. Besides, we also have some worries in this connection. We call on the relevant departments of the Government to face up to these issues squarely and seek ways to resolve them. In addition, the purpose of these Notices is to enable disabled persons whose productivity may be impaired by their disabilities to choose to take a productivity assessment, so as to determine whether they should receive a wage no less than the statutory minimum wage, or allow them to receive a wage commensurate with their productivity. We consider that the essence of these Notices is to safeguard

the rights and interests of persons with disabilities, and we believe it is necessary for us to reiterate the Democratic Party's stance in this Chamber one more time.

President, as we have made it clear in July last year when scrutinizing the primary legislation of the Minimum Wage Ordinance, the Democratic Party considers that in principle, disabled employees should also be covered by the statutory minimum wage protection like the able-bodied employees. The Democratic Party suggests that in the long run, both public and private organizations should set up an employment quota system for persons with disabilities. Only in this way can we really encourage and assist persons with disabilities to join the workforce of our community. Speaking of a quota system, I believe if we should bring this up for discussion at this stage, we might be faced with many opposing views, obstacles and difficulties. Under such circumstances, it may not be possible to provide desirable employment protection for persons with disabilities right away.

Hence, under the premise of preventing the implementation of the Minimum Wage Ordinance from imposing unpredictable impact on the employment of persons with disabilities, the Democratic Party cannot raise objection to the stance of the Government as stipulated in the primary legislation. Actually, many parts of the legislation are still unable to offer full protection to persons with disabilities, but we cannot raise our objection in this connection, or they will have to face even greater difficulties.

When the productivity assessment mechanism set up for persons with disabilities is put into operation, will there be any loopholes or risks of being abused? We have to follow up the situation closely to see if there are any problems and rectify them promptly. Besides, given that the productivity of persons with disabilities may enhance gradually, we hold that the authorities should conduct timely and regular reviews of the operation of the assessment mechanism, and seriously consider whether it is necessary to set up a reassessment mechanism. It seems that no such mechanism is available at the moment, and we believe the Government should review and look into matters in this respect. Hence, the Democratic Party calls on the Government to adopt a pragmatic attitude in examining the real effects of the productivity assessment mechanism in future. If problems are identified, policy adjustment should be made correspondingly. Besides, if the Government is to really protect the

reasonable rights and interests of disabled employees, it must endeavour to adopt timely and reasonable arrangements as extensively as possible.

Regarding the specific contents of the two Notices, given that many technical issues are involved, and that we expect different problems and issues will emerge upon the implementation of the relevant legislation, the Democratic Party holds that the Government should listen more to the views expressed by the relevant professional bodies and the affected persons with disabilities, rather than working behind closed doors like what it did in preparing the Budget and ending up incurring criticism even when offering a cash handout. Their views should be of help to the Government in making reasonable adjustment to the relevant policies. In addition, the Democratic Party also wishes to make good use of this platform today to express our views regarding the following issues.

To begin with, according to the Minimum Wage (Criteria for Approved Assessors) Notice, the four categories of persons specified by the Government can become approved assessors upon completing satisfactorily the training arranged by the Commissioner for Labour for the purpose of conducting productivity assessment for people with disabilities. As regards the question of whether the four categories mentioned are sufficient and appropriate, we hold that the authorities should keep on following up the situation after the relevant legislation has come into operation, and revisit the question from time to time. Furthermore, under this Notice, vocational rehabilitation practitioners are required to obtain a recommendation from a recognized organization, but such a requirement is not applied to registered occupational therapists, registered physiotherapists or registered social workers. There are divergent views both inside and outside this Council as to whether this requirement is reasonable and whether it should be abandoned. I hope the Government will keep a close watch on the actual operation of the recommendation mechanism in future to find out whether there are any loopholes, and make every endeavour to explore room for improvement.

According to the Government, the training for approved assessors arranged by the Labour Department will prepare assessors to fully understand and master the related provisions of the primary legislation and its relevant subsidiary legislation, the principles of the productivity assessment, as well as the details of the procedures and methods of assessment, thereby ensuring the smooth and

effective operation of the assessment mechanism. The Democratic Party considers that the minimum wage is a brand new legal matter in Hong Kong, and we do understand that it is just inevitable for the Government to act in an inexperienced manner at the initial stage of operation. As persons with disabilities are the comparatively underprivileged group in our community, it is very important that the assessors can grasp fully the essential elements of the assessment in the training arranged by the Labour Department and certify a reasonable degree of productivity for the persons with disabilities concerned. As such, the Democratic Party suggests that the Government should keep on consulting the various stakeholders (including the professional bodies related to the approved assessors), with a view to giving more substance to the specific contents and other details of the training provided for approved assessors. At the same time, the authorities should also make reference to the experience of other countries, with a view to adding more positive factors for consideration into the details of the training programme.

President, the Democratic Party also wishes to speak on the appointment of approved assessors and the complaints against assessors. When members discuss the procedures for withdrawing the approval granted to an approved assessor at the meetings of the Subcommittee on the two Notices, the Administration has advised that it will formulate the procedures for withdrawing approval granted to an approved assessor in accordance with administrative law principles. The Government has also mentioned that it may conduct quality control for the performance of approved assessors through different channels, such as undertaking surprise checks, monitoring the performance of approved assessors, collecting feedbacks from persons with disabilities and employers, investigating complaints thoroughly, and so on. We hope that the Government will put its words into practice. If it just keeps its hands folded after giving such words, when something goes wrong eventually, it will not know what to do to deal with the situation. Besides, we also hope that the relevant departments will not be suffering from any problems like insufficient manpower and so on when conducting investigation or monitoring work in future, or the effectiveness of their work will be undermined. We do not wish to see the Labour Department and other relevant government departments being hindered by any technical issues or any other different reasons in putting their words into practice, thereby rendering the legislation and these Notices "toothless tigers", and impairing indirectly the rights and interests of persons with disabilities. Hence, the Democratic Party will adopt a prudent attitude towards the issues discussed just

now, and follow up the situation closely with the Government, so as to safeguard the rights and interests of persons with disabilities.

President, we also hope that the authorities will expeditiously announce the detailed procedures for withdrawing the approval granted to an approved assessor. The authorities have promised that they will do it, but so far they still have not made any detailed account to the public to enable us to understand the details and express our views. As regards complaints against assessors, the authorities have advised that complaints against the assessment mechanism may be lodged with the Labour Department, and where appropriate, complaints may also be lodged with the professional bodies concerned. We hope that the authorities can tell us some specific details and whether there is any possibility that a formal complaint mechanism supported by rules and standards be set up, so that the guidelines or procedures provided for persons with disabilities to lodge complaints will not be too ambiguous, thereby giving people a clearer picture of the operation to avoid confusions.

Lastly, President, we are also concerned with the future publicity work regarding the special arrangements for persons with disabilities. As we all know, just like other labour-related legislation and measures, however well-written a new piece of legislation and new set of guidelines are, if they cannot be implemented, they are nothing more than empty words. And the key to their successful implementation or otherwise is the details contained therein, and the extensive publicity work conducted to enable all members of the public to understand the importance of the legislation. We believe that the purpose of both the special arrangements for persons with disabilities stipulated in the primary legislation of the Minimum Wage Ordinance and the two Notices under discussion today is to achieve the ultimate objective of safeguarding the rights and interests of persons with disabilities. As such, the Democratic Party calls on the Government to realize its undertaking by pointing out specifically in the publicity materials relating to the special arrangements that the right to initiate an assessment rests with persons with disabilities. Besides, the authorities should also explain to persons with disabilities their rights and responsibilities under the legislation, so that they can really be benefited by the statutory minimum wage introduced in Hong Kong for the first time.

I so submit. Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): President, on 1 May this year, the minimum wage which the Hong Kong Confederation of Trade Unions (CTU) has been striving for over the years will finally be implemented. Nevertheless, workers should still be prepared for a struggle. At present, about 300 000 workers are earning an hourly wage less than \$28. Upon the implementation of the minimum wage, we may see a phenomenon that rarely happens in recent years, as the lower income workers will finally have a pay rise. But then, behind the scene, we have already started to see many employers seeking to cancel out the pay rise by cutting their employees' paid rest days and paid meal breaks — the paid meal breaks may cost about \$500 while the paid rest days may cost \$800 to \$1,000 — and then employ the workers at the said hourly wage. At the end of the day, the workers are deprived of their paid rest days. In this connection, I hope workers will complain to us once they encounter such an arrangement. We will be prepared to start a struggle on all fronts. At the same time, we will keep on striving for a minimum wage of \$33, an hourly wage which can really help workers support their families.

The motion today is not on the minimum wage. Rather, it is about the productivity assessment for persons with disabilities to be conducted in relation to the minimum wage. In CTU's view, this is one great source of regret of the Minimum Wage Ordinance. We consider it regrettable because the relevant provisions of the legislation are discriminating against persons with disabilities. Then, why did we eventually accept such discriminatory provisions against our own will? This is because Hong Kong does not have in place any complementary arrangements to take care of the employment of persons with disabilities. And this also explains why many people raised their objection when we first put forward the proposal of setting a minimum wage. Their objection is based on the argument that setting a minimum wage will render the disadvantaged groups and persons with disabilities impossible to get an employment, and cause them to be dismissed or deprived of jobs.

People who hold such a view can be divided into two categories. While some people really raise their objection out of goodwill, others are just trying to take advantage or sneak benefits. Who are those seeking to take advantage or sneak benefits? They are people who actually object to the setting of a minimum wage but make use of persons with disabilities as a pretext for opposing the minimum wage. These people just do not want the workers to have a minimum wage. Regarding the genuine concerns of the former category,

we do understand their point. As a matter of fact, the employment market is so merciless, and there is some degree of discrimination against persons with disabilities. We all know that very clearly. Indeed, it is very difficult for them to get a job even in the absence of a minimum wage, and they also encounter discrimination in seeking jobs.

In my view, if we are to resolve the issues, we should not discriminate against persons with disabilities in implementing the minimum wage. When speaking of the minimum wage, everyone seems to be very much concerned about the employment situation of persons with disabilities. If we really wish to promote the employment of persons with disabilities, please support the quota system. How is the quota system going to help? Here, I urge Members not to use the small and medium enterprises as a pretext and claim that the quota system will impose pressure on them. Under the quota system, enterprises with more than 100 employees are required to have 2% of their posts filled by persons with disabilities. So, this is how the quota system works. This system is now in operation in Japan. If the quota system is implemented in Hong Kong, we can create more employment opportunities for persons with disabilities. But we do not do that. Even tax concessions for employing persons with disabilities are not available in Hong Kong. However, I find tax concessions not very effective in this respect. The most important step is to implement the quota system. Regrettably, however, we do not have such an arrangement.

Another element that we are missing is supportive employment measures. I have discussed with many social welfare organizations, particularly those engaged in rehabilitation services their assistance in taking charge of and organizing persons with disabilities in seeking jobs. One of the job seeking methods they employ is to set up their own firms to bid for contracts. Regrettably, however, there is no supportive measure. What is missing there? Those firms and social enterprises set up by rehabilitation organizations do not enjoy any priority in tendering exercises. Actually, they should be given more than mere priority. Some contracts should only invite them to tender. It is not reasonable to require such firms and enterprises to compete with commercial organizations. Their only way to win the tender is to press down the bidding price, but with a low bidding price, they can only afford low wages. As such, how can they offer reasonable wages to persons with disabilities? Their only way out is perhaps to pay persons with disabilities a wage 50% less than that

earned by the ordinary people, if they are to bid for the contracts. Why are persons with disabilities not offered a reasonable wage to enable them to work with dignity? However, the Government has not done much in this respect. It is not doing nothing. It has put in some effort, only that the effort is just minimal and not effective enough. Given that the Government has put up so many work contracts for tender, why does it not offer all such contracts to social enterprises? That way, the disabled employees can earn their living with dignity.

In addition, to my great regret, we have another demand which the Government has yet to satisfy. If the Government considers it necessary to implement this assessment mechanism for persons with disabilities, I am afraid it is "surrendering" to the employment market. I understand that employers wish to know about the degree of productivity of persons with disabilities before deciding on whether or not to employ them. For instance, if the person concerned has 70% of productivity, he will be paid 70% of the minimum wage; if his productivity is 50%, he will be paid 50%. I accept that this is the merciless reality, but why can the Government not provide any subsidy? And this is exactly our another demand. Many organizations working for the welfare of persons with disabilities have joined the CTU to make this demand, including Mr LEUNG Yiu-chung from the Neighbourhood and Workers Service Centre. We have called on the Government many times to consider setting up a wage subsidy mechanism. The subsidy ceiling can be set at 50%. If the assessment result indicates a productivity of only 50%, the disabled employee concerned will receive a wage subsidy of 50%; if the assessment result indicates a productivity of only 40%, the disabled employee concerned will receive, at most, a total of 90% of the minimum wage. In addition, as the relevant subsidy can be used to cancel out the disability allowance payable to the persons with disabilities concerned, the government expenditure will not be increased in real terms. But such an arrangement can at least serve as a great incentive to encourage persons with disabilities to work. This is because they will be earning the same and equal wage as the ordinary people. If the wage for an eight-hour-a-day job is \$5,800, they will receive \$5,800 like others; if the pay for a 12-hour-a-day job is \$8,000-plus, they will receive \$8,000-plus like others. Hence, all employees are equal. This can be done by means of government subsidies, why can the Government not do it?

If the Government is going to argue with us over this matter at this moment, it will need to deal with one weak point, because both the Secretary and the Government as a whole definitely cannot claim that "there is not any money". As we all know, the Government can hand out \$40 billion in one go, but what we are talking about here is just a minimal sum. It seems that the Government always refuses to put in place any long-term measures. Once any measures involve some long-term arrangements, the Government will always quote the principle of prudent financial management, saying it will only spend when necessary and not otherwise. However, when it comes to short-term measures, money can be spent recklessly.

For this reason, persons with disabilities will certainly take part in the march tomorrow. Why should they join the march? This is because we want the Government to listen to the voices of the people. It is not like we will feel good, sweep all the long-term problems under the carpet and forget all about them after spending the \$6,000 hand-out offered by the Government. Persons with disabilities do receive the said \$6,000, but do they have a job? All of them do receive that \$6,000, but do they get a minimum wage? The answer is still no. Then, why can we not call on the Government to provide a subsidy, rather than handing out \$6,000 like it is planning to do now? The provision of such a subsidy can offer them long-term protection and encourage them to work hard. Why can the Government not do it? For the people who are now listening to the proceedings of this meeting, they should really go to the Chater Garden at 3 pm tomorrow to join the march. We will tell the Government that we are demanding it to make long-term commitments. In particular, this part of the minimum wage arrangement reflects that both the Government and the community are not treating persons with disabilities fairly.

I must say sorry to persons with disabilities with regard to another provision under the legislation. When we were scrutinizing the primary legislation, I attempted to amend the relevant provision, but my efforts were in vain. According to that provision, if an employer dismisses or refuses to employ a person with a disability upon learning his degree of productivity as shown in the outcome of an assessment, that employer will be exempted from the Disability Discrimination Ordinance. In that case, what is the use of the Disability Discrimination Ordinance? Is the Disability Discrimination Ordinance not introduced to ensure equal employment opportunities for persons with

disabilities? But then, this piece of legislation in front of us is blatantly exempted from the Disability Discrimination Ordinance. The productivity assessment may take a long time, lasting a period of two weeks, three weeks or four weeks. But after a person with a disability has completed the assessment and received the assessment outcome, his employer can still dismiss him and get away from the Disability Discrimination Ordinance. This is an even more unfair arrangement to persons with disabilities. This is a blatant discrimination against them by law. As regards the Equal Opportunities Commission, we are afraid the Commission is once again being "rendered powerless" in this incident.

Lastly, President, I wish to point out another area in the legislation which we have to express our views. I am talking about the four categories of persons eligible to serve as assessors. Among them, three are registered professionals, while the fourth is vocational rehabilitation practitioners. In fact, members of the fourth category are more closely connected with persons with disabilities than the other three categories of registered professionals. Who are helping persons with disabilities to look for jobs? Who are responsible for giving them training? The vocational rehabilitation practitioners are.

But then, the legislation requires the vocational rehabilitation practitioners to have 10 years of experience and the recommendation of their employers. We really do not understand why they are required to obtain their employers' recommendation. With their 10 years of experience, how come they cannot be approved as assessors right away and must be recommended by their employers? Do their employers really know about how things are going? To practitioners with 10 years of experience, this requirement is not very much different from an insult, as the Government finds their experience not sufficient to support their application and must be backed up by their employers' recommendation. Hence, we have argued with the Government over this point and raised our objection to the requirement for employer's recommendation all along.

In the end, after discussing with the Government, we have to eat the leek, and perhaps the Secretary may expound on that later. The Government has finally advised that if an employer refuses to give his recommendation, the practitioner concerned could lodge a complaint with the Labour Department, and the Labour Department will find out the reason why the employer refuses to give his recommendation. Nonetheless, I still find the entire system not very

desirable. Basically, given that the practitioners have 10 years of experience and have been working on the front line to help persons with disabilities seek jobs, the Government should respect their experience and abolish the requirement for having an employer's recommendation.

Is it guaranteed that there will be nothing wrong with the registered professionals? I consider this a blind faith in the registration system. Is it for sure that professions with a registration system in place are good, and those do not are certainly not good? In my view, the entire requirement is a kind of discrimination against the vocational rehabilitation practitioners. They also wish to get registered, but they do not have a channel to do so. It should be best if the Government would set up a registration system for them. But since they do not have any channel to get registered now, the Government is requiring them to obtain their employers' recommendation.

Actually, I have all along found this arrangement prone to conflict of interests. If I am an employer, I will certainly refuse to give him my recommendation. When will my employee be doing the assessment work if I give him my recommendation and he really becomes an assessor? Will he have to take days off to do such work? So, a certain kind of conflict of interests is already involved here. But then, I learn that the Government has eventually made an undertaking that in case any employers should refuse to give their recommendation, the authorities would be responsible for the so-called mediatory work or set up a mechanism to receive complaints. We just hope that things of this kind will not happen in future, for we believe that 10 years' experience is sufficient as a qualifying requirement. I hope the Secretary will answer my questions in this respect later on. Thank you, President.

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

(No Member indicated a wish to speak)

SECRETARY FOR FOOD AND HEALTH (in the absence of Secretary for Labour and Welfare) (in Cantonese): President, since the Secretary for Labour

and Welfare is otherwise engaged and unable to attend the Legislative Council meeting today, I will give a response in this motion debate for the Government.

The Government submitted to the Legislative Council on 12 January this year two notices, the Minimum Wage (Criteria for Approved Assessors) Notice and Minimum Wage (Assessment Methods) Notice (the Notices), which are related to the productivity assessment for persons with disabilities and drawn up pursuant to the Minimum Wage Ordinance (the Ordinance). The Legislative Council subsequently formed a Subcommittee to study the Notices.

First of all, I have to sincerely thank Mr TAM Yiu-chung, Chairman of the Subcommittee, and 14 members of the Subcommittee for their hard work in convening a total of four meetings to discuss the contents of the Notices in a comprehensive, detailed and thorough manner and listen to the views put forward by 13 deputations. The Government is very pleased to know that all members of the Subcommittee will not propose any amendments to the Notices. Upon the completion of the scrutiny of the Notices by the Legislative Council, the Labour Department will undertake the preparatory work for the productivity assessment mechanism for persons with disabilities at full speed, including the recruitment and training of approved assessors, the provision of detailed administrative guidelines for approved assessors, and so on, so as to tie in with the full implementation of the statutory minimum wage (including the productivity assessment mechanism for persons with disabilities) on 1 May this year.

I also wish to thank the several Members who have spoken just now. Here I would like to give a brief response. To start with, the Ordinance provides that same as the able-bodied employees, employees with disabilities are entitled to the protection of the statutory minimum wage. Nonetheless, in consideration of the employment difficulties that some persons with disabilities may encounter, the Ordinance also provides for a special arrangement so that persons with disabilities will have the right to choose to have a productivity assessment to determine whether they should be remunerated at not lower than the statutory minimum wage level or at a rate commensurate with their productivity. I must stress that the right to invoke the assessment is vested in persons with disabilities rather than the employers. The special arrangement which gives persons with disabilities the right to choose would strike a reasonable balance between the wage protection and employment opportunities for persons with disabilities. The Labour Department will continue to consult stakeholders and relevant professional bodies on the administrative guidelines for approved assessors, and

implement extensive and comprehensive publicity and promotional programmes in order to make persons with disabilities and employers clearly understand their rights and responsibilities under the statutory minimum wage regime.

Hong Kong has no experience in the implementation of the statutory minimum wage, particularly the assessment mechanism for persons with disabilities under the statutory minimum wage regime. We will review the special arrangement for persons with disabilities in the light of actual operational experiences within two years of the implementation of the statutory minimum wage regime.

On the suggestions to provide a wage subsidy or implement an employment quota system for persons with disabilities, they are not in line with the legislative intent of the setting of a minimum wage, which aims at stipulating a wage floor to prevent employers from paying employees with excessively low wages, and the provision of the statutory minimum wage protection to the wages of low-income workers can reduce the need to use social resources to provide welfare to low-income earners. To meet the needs of persons with disabilities, the Government has all along been providing services to persons with disabilities in various aspects, including medical rehabilitation, vocational rehabilitation, education, employment, and so on, through a range of policies. In addition, according to the operational experiences of other places, the implementation of employment quota system has yet met with success in terms of helping the employment of persons with disabilities. The Government will continue to provide suitable trainings and employment support to persons with disabilities, and promote their capabilities with a view to enhancing their employment opportunities.

Currently, some government departments such as the Leisure and Cultural Services Department or medical institutions have also made special arrangements to increase the employment opportunities of persons with disabilities through the participation of social enterprises. President, Secretary CHEUNG is not present now, but same as him, I also understand that the employment of persons with disabilities is of great importance. Also, I would like to tell employers that persons with disabilities usually very much treasure their employment opportunities. Hence, if we do not give them sufficient opportunities, they will not have the same opportunities as others in society.

President, I so submit.

PRESIDENT (in Cantonese): This debate will now come to a close. In accordance with Rule 49E(9) of the Rules of Procedure, I shall not put any question on the motion.

PRESIDENT (in Cantonese): Two motions with no legislative effect.

First motion: Public Accounts Committee's Report on "Administration of the Direct Subsidy Scheme and Governance and Administration of Direct Subsidy Scheme Schools".

The mover of this motion may speak for up to 15 minutes respectively on moving this motion and giving reply; and other Members each may also speak for up to 15 minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Dr Philip WONG to speak and move the motion.

PUBLIC ACCOUNTS COMMITTEE'S REPORT ON "ADMINISTRATION OF THE DIRECT SUBSIDY SCHEME AND GOVERNANCE AND ADMINISTRATION OF DIRECT SUBSIDY SCHEME SCHOOLS"

DR PHILIP WONG (in Cantonese): President, in my capacity as Chairman of the Public Accounts Committee (PAC), I move that the motion, as printed on the Agenda, be passed.

One of the important duties of the PAC is to consider Reports of the Director of Audit (Audit Reports) on his value-for-money audits of Policy Bureaux and government departments, and issue its own reports based on the observations in the relevant Audit Reports, so as to monitor public expenditure.

The Audit Report No. 55 was submitted to the Legislative Council on 17 November 2010, and it contains two chapters on "Administration of the Direct

Subsidy Scheme" and "Governance and Administration of Direct Subsidy Scheme Schools".

The Direct Subsidy Scheme (DSS), introduced in the 1991-1992 school year, is administered by the Education Bureau. The DSS plays a very important role in Hong Kong's education system, and many DSS schools are highly popular among parents. In view of the wide public concern about the problems identified in the Audit Report, the PAC conducted inquiries into such problems. From November to December 2010, we held four public hearings to receive evidence from the Secretary for Education and Education Bureau officials. We subsequently held a series of internal meetings to discuss our own report. The PAC had finished its work and submitted its audit report to this Council on 16 February, with its first chapter outlining our conclusions and recommendations on the relevant problems. Given that Members and the general public are very concerned about the problems with DSS schools, the PAC opines that it is necessary to enable all Members to express views on the issues we have examined as well as on our conclusions and recommendations at a Council meeting, so it has decided that I should move a motion debate at today's Council meeting on the chapters on the administration of the DSS, as well as the governance and administration of DSS schools contained in the PAC Report.

President, after a thorough examination of the relevant problems, the PAC has concluded that although the objective of the DSS is to inject diversity to Hong Kong's school system through the growth of a strong subsidized private school sector so that parents would have more choices, and DSS schools are allowed greater flexibility in various areas, in our view, the Education Bureau must perform its monitoring role to ensure that DSS schools comply with its requirements, and that their governance, accountability and transparency are up to the required standard and public expectation.

However, the PAC discovered in its inquiries that the Education Bureau had failed to discharge its monitoring role over DSS schools effectively, as reflected by some serious cases of non-compliance with the Education Bureau's guiding principles or requirements and its failure to take effective actions to ensure timely rectification of those problems. We express our disappointment in this regard.

The PAC also discovered that the Education Bureau had failed to attach sufficient importance to the gravity of the problems in the administration of DSS schools in that they were simply dealt with as operational issues. For example, the Finance Division of the Education Bureau, by checking the audited accounts of the schools, discovered that some schools had repeatedly failed to set aside adequate provision for fee remission/scholarship scheme purpose; one of such schools had even been reminded time and again by the Education Bureau since September 2005 to set aside the required amount of school fee income for its fee remission/scholarship scheme, but the school ignored the Education Bureau's request in five consecutive years. Nevertheless, according to the Education Bureau's practice, staff at the Finance Division only referred the said cases to the Education Bureau's regional education offices for follow-ups without bringing them up to the attention of the Permanent Secretary for Education and the Secretary for Education. As a result, the Secretary for Education had all along not been aware of the widespread compliance problems in DSS schools. The PAC also found out that there was no dedicated high-level body in the Education Bureau to oversee the administration of the DSS and the schools' compliance. In respect of these problems, the PAC expresses grave dismay and finds it unacceptable.

In a public hearing of the PAC, the Secretary for Education stated that the Education Bureau was "toothless" towards non-compliant DSS schools, and the PAC finds this statement of the Secretary both surprising and unacceptable. It is because the Education Bureau may actually take a series of administrative and punitive measures against these schools, including issuing warning letters, appointing school managers to the School Management Committee, and even withdrawing the subsidy payable to the school with a resultant loss of DSS status.

In addition, the PAC noted that in the early stage of the DSS, in order to encourage greater participation, the Administration allowed some schools to join the DSS before they had been able to fulfill all the admission requirements. However, the authorities had failed to consider the circumstances of individual schools in advance, making it difficult for the Education Bureau to deal with the problems that surfaced subsequently in requiring the schools to comply with certain admission conditions. For example, due to historical reasons, some DSS schools did not enter into School Sponsoring Body Service Agreements with the authorities eight years after joining the DSS. The PAC expresses its disappointment in this regard.

President, the PAC also noted that DSS schools are required to adopt a fee remission/scholarship scheme in order that students will not be deprived of the chance to study at DSS schools solely because of their inability to pay school fees. Therefore, I express my dismay that some DSS schools did not set aside the required amounts of school fee income for the purpose of their fee remission/scholarship schemes, nor did they clearly set out the eligibility criteria of the schemes or adequately publicize the schemes. The PAC believed that this might have discouraged needy parents from applying for their children's admission to DSS schools due to lack of such information. The PAC also found it totally unacceptable that the Education Bureau had failed to discharge its duty to monitor DSS schools' compliance with its requirements on the schemes, and that the Secretary for Education and the Permanent Secretary for Education had not been aware of the non-compliance. In addition, the PAC expresses its dismay that the utilization rate of the fee remission/scholarship schemes of 14 DSS schools was 50% or less.

In addition, under the existing policy of the Comprehensive Social Security Assistance (CSSA) Scheme, no special grant for school fees would normally be given under the CSSA Scheme to students who choose to attend DSS schools. We express dismay as this may deprive students from families in receipt of CSSA of the chance to study at DSS schools.

In respect of school fee revision, the Audit Report disclosed that, of the 30 approved applications for fee increases in 2008-2009, 26 DSS schools had underestimated their projected accumulated operating reserves for the academic year. Meanwhile, the PAC found out that DSS schools had been given flexibility in using their operating reserves of non-government funds to finance large-scale capital works and maintenance works of above-standard facilities, such as construction of additional floors and swimming pools. The PAC opined that the charging of such expenditure to the schools' operating reserves might be a justification for applying for substantial school fee increases, which in turn might create heavy financial burden on parents. This was particularly so if the school intended to raise funds for the capital works over a short period of time. We are surprised and express serious concern in this respect.

Targeting at the various problems, the PAC has put forward a series of recommendations, including urging the Secretary for Education to enhance his supervision of the DSS, to ensure that the Education Bureau will perform its

monitoring role over DSS schools more effectively, and to establish a dedicated high-level body in the Education Bureau to oversee the administration of the DSS as well as its supervision and monitoring of DSS schools. We also urge the Secretary for Education to put in place a system that requires Education Bureau staff to report, in appropriate cases, DSS schools' non-compliance and malpractices to sufficiently high-level staff (including the Permanent Secretary for Education and the Secretary for Education) for follow-up actions. The Secretary for Education should also conduct a comprehensive review to explore effective measures to ensure that students from grass-roots families will have a fair chance of studying in DSS schools.

President, next, I am going to put forth my personal views.

The Audit Report and the PAC Report uncover many inadequacies of the Education Bureau in administrating the DSS and supervising DSS schools, and identify non-compliance in some DSS schools. I am particularly concerned about the problem of DSS schools becoming exclusive to the privileged few. While the Secretary for Education reiterated time and again in the hearings that not all DSS schools charged high school fees and some schools charged very low fees, he also admitted that the students in some DSS schools were from either wealthy or influential families. Therefore, the utilization rate of the fee remission/scholarship scheme in those schools was very low. I think it is most important to ensure that students from grass-roots families can also have equal chances of admission to DSS schools because access to good education is an important factor that enables people at the grass-roots level to move upwards in society.

I understand that not all DSS schools are the best schools in Hong Kong, and a lot of excellent schools have not joined the DSS. However, it is undeniable that the students in many DSS schools are very outstanding in academic performance, and these schools are also marked with various features that can suit students' varied development needs. I think that since the objective of the implementation of the DSS by the Government is to offer more choices to parents in the course of choosing appropriate schools for their children, needy parents should likewise have the right to choose, so that students' chances of admission to DSS schools will not be reduced due to the unsatisfactory financial condition of their families.

There is one point I must mention. The PAC Report identifies non-compliance of some DSS schools. One example is the purchase of properties through a trust arrangement which was considered improper by the Education Bureau. And, another school invested part of its surplus funds in stocks and investment funds instead of placing them in time deposits and savings accounts in accordance with the Education Bureau's guidelines. These are no doubt malpractices, but they are after all mistakes that can be rectified. By comparison, if schools fail to follow the requirements of the fee remission/scholarship scheme without setting aside sufficient funds for needy students, or if schools fail to clearly set out the eligibility criteria of the scheme or adequately publicize the scheme, grass-roots parents are deterred from applying for their children's admission to DSS schools due to their concern about unaffordable school fees or other tuition expenses, thus depriving their children of a chance to receive education in the most suitable schools, it is very regrettable indeed. And, the mistake cannot possibly be rectified in such cases.

President, I hope that the Secretary for Education, Education Bureau officials and DSS schools can learn a lesson from the audit this time, seriously review the inadequacies of the DSS and DSS schools in terms of governance and administration, adopt practicable measures to rectify mistakes, and actively respond to the PAC's recommendations, so as to enable the next generation in Hong Kong, poor or wealthy, to enjoy equal opportunities of admission to schools most suited to their development, including DSS schools.

Dr Philip WONG moved the following motion: (Translation)

"That this Council notes Chapter 1 of the Public Accounts Committee Report No. 55 on 'Administration of the Direct Subsidy Scheme and Governance and Administration of Direct Subsidy Scheme Schools'."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Philip WONG be passed.

SECRETARY FOR EDUCATION (in Cantonese): President, first of all, I would like to thank the Public Accounts Committee (PAC) for raising a number of observations and recommendations concerning the administration of the Direct

Subsidy Scheme (DSS), as well as the governance and administration of DSS schools in its Report No. 55. We find the PAC's recommendations very useful for the Education Bureau to maintain continuous improvement of the DSS.

DSS schools have been introduced since the 1991-1992 school year. Comparing with government and aided schools which have been developed for more than half a century, the development of DSS schools is relatively short and new. Over the past two decades, we have been adhering to the principle of accumulating experience, maintaining continuous improvement and introducing a number of key governance measures, such as the introduction of service agreements and the enhancement of various financial guidelines.

I understand the public's concern about the DSS and the development of DSS schools. Broadly speaking, the public recognize the value of DSS schools in general, for they can inject diversity into Hong Kong's school system and provide more choices for parents. To meet their diverse operational and developmental needs, it is necessary for the Government to allow them a certain degree of flexibility in various areas, including school management, resources deployment, staff appointment, curriculum design, student admission and fees determination, so that they can cater for the various needs of their students in a more responsive and proactive manner.

I think we are all concerned about an issue, and that is, the Education Bureau's monitoring on DSS schools. As recommended in the PAC Report, the Education Bureau should enhance its supervision on the DSS and perform its monitoring role more effectively. I agree with the PAC's recommendations. Recently, there are also worries that the Education Bureau's monitoring on DSS schools may suddenly be too strict, thereby hindering their development and characteristics. I would like to reiterate here that I also find room for improvement in the monitoring mechanism. However, I opine that the basic principle of the current monitoring on DSS schools, that is, "act in accordance with the law" and "take supervisory measures as appropriate", should not be changed, as this is most beneficial to their development.

The Education Bureau and DSS schools will continue to focus on their respective responsibilities, with a view to striking a balance between supervision and flexibility. As for improving the current monitoring mechanism for DSS schools, we will take it into serious consideration, putting emphasis on how to

optimize the existing system. As such, DSS schools can achieve and maintain a high level of corporate governance and enhance the transparency of their school management, so that they can be accountable to the public and stakeholders.

Another important issue is about DSS schools' provision for fee remission. In the early stage of the DSS, the Government has committed to explore ways to ensure that students will not be deprived of the chance to study at DSS schools because of their inability to pay school fees. Therefore, all schools joining the DSS are required to set aside at least 10% of the total school fee income for their fee remission/scholarship scheme. The recommendations concerning the improvement of the fee remission/scholarship scheme put forth in the Report are in line with our rationale for setting up the DSS. Regarding the mechanism and supervisory measures for implementing the fee remission/scholarship scheme, I also think that there is room for improvement.

At present, it is a task of top priority for us to be forward-looking. In order to further optimize the DSS, I have appointed the Permanent Secretary for Education to chair the Working Group on DSS, which comprises six members from the private sector with expertise in governance, financial management, human resources and other relevant experience, as well as four responsible officers of the Education Bureau. The Working Group, which will mainly be responsible for examining systemic problems, including the governance framework, internal control and financial management of DSS schools, is expected to make improvement recommendations to me by the end of this year.

President, I so submit. I will give other concrete responses after listening to the views put forth by Members.

MR RONNY TONG (in Cantonese): President, some of my friends have told me that my temper seems to be on a short fuse easily ever since I was elected a Member of the Legislative Council. Whenever they see me on television, they find that although I do not hurl plastic bottles, bitter melons or bananas, I am often with a deep frown, smacking the table and chair while chiding government officials. They wonder whether I really need to take things so much to heart. Even though the books of some Direct Subsidy Scheme (DSS) schools are very messy, they say, the schools concerned have not lost or embezzled any money after all, and the problem is only that they do not know how to use the money to

help students. Admittedly, one or two schools did spend the money on purchasing properties and stocks, but not all the 90-odd schools did so.

President, I think it will be rather sad if one is not infuriated when facing certain topics in this Council, because this means one has become indifferent. It is fortunate that I have not turned indifferent even though I have been a Member for six years. President, in respect of improving people's lot, education is an extremely important factor, not least because over the past decade or so since the reunification, despite our burgeoning economy, the wealth gap in Hong Kong has turned wider rather than narrower in pace with our economic success. What exactly is the reason?

Although people like the President, many other Members and I myself were not aware of anything called social mobility under the British colonial rule in the 1950s and 1960s, we were nonetheless able to benefit from this force of mobility back then. That we have got where we are, standing in this Chamber or occupying other important positions in society today, is attributable to social mobility. The most important benchmark of social mobility is the genuine practice of the paramount educational precept championed by the Chinese, or Confucius to be precise: Education without discrimination. However, many parents today lament that the case in Hong Kong is actually "education with discrimination". The reason is that there are two streams of schools at present: Subsidized schools on the one hand, and DSS schools and private schools on the other. With the streaming of schools into DSS schools and private schools, if a student is lucky enough to be admitted to one of these schools, he is to a great extent given a guarantee of success in society in the future. This is because regardless of whether the education received by the student is really of high quality, he is already a member of the social club formed by graduates of the school, and this club can link him to a very significant network of connections in society. Even if the student unfortunately fails to score satisfactory grades in school, his schoolmates will still give him support through this close-knit network.

President, such streaming of schools is extremely unfortunate to Hong Kong, and the most saddening thing in such streaming is that the victims are kept totally in the dark. President, it is fortunate that we have established a system of account investigation. True, we have not discovered these messy accounts until after a time lag of 10 years, but having them investigated finally is still better than

failing to do so at all. Without such a system, we will never be able to investigate some schools or DSS schools. Can we imagine how the situation will be like?

President, whether you see it as fortunate or unfortunate, DSS schools are much sought after by Hong Kong parents. As I have explained just now, they believe that once their children are admitted to these schools, even if their academic results are not satisfactory, that network of connections can still assist them greatly in raising their social status and making achievements in the future. Therefore, parents will never lodge any complaints. Whatever fees their children's schools charge, they will only grit their teeth and accept them. President, even though the Public Accounts Committee has criticized against these schools, parents have still come forward immediately to show their support for the schools. Why? Such a response is very pragmatic, but it can also be described as very selfish. Any decline in the reputation and social status of these schools will do them, and particularly their children, no good. Therefore, they have sought to defend these schools under any circumstances, and over time, school operators gradually turn self-complacent, thinking they are the best in the world. School operators do not even see any problem with not honouring the agreements they have entered into. President, they do not think that this is a problem. My reason for saying so is very simple. Is it because the school principals do not know any English? This is hardly convincing because they are also a teacher. Is it because the school principals or school managers are unaware of the binding effect of an agreement under the law? No. They are after all teachers of others. In that case, how come so many schools simply behaved as if nothing had happened after entering into an agreement with the Education Commission (EC), and how come some schools even refused to enter into an agreement? But what was most unfortunate was that the EC did not take any actions at all, and it was totally unaware of such incidents.

President, many such problems have been repeating themselves year after year, but the victims are kept totally in the dark. The victims I am referring to are some poor students who aspire to receiving education of a higher quality. They are kept totally in the dark, and they do not realize that they can also have opportunities of admission to a school of this stream. Since they are kept in the dark, they can only sigh at the thought of entering DSS schools and succumb to fate, thinking that since their results cannot meet the requirements, there is

nothing they can do. President, this is the very point about the messy accounts that outrage people so much.

President, a few weeks ago, shortly before the Chinese New Year, I paid a fact-finding visit to a DSS school at the invitation of a radio station. I will go to another school next Monday. President, when I talked with the principal, I was really shocked, because he was completely ignorant of the overall operation of DSS schools and their scholarship provision, so ignorant that he even asked us for an explanation. He told me that he had been principal for four years, and had been teaching in that school for as long as 10 years. He was appointed principal four years ago. I asked him whether anyone from the EC ever approached him and told him how to deal with the issue of scholarships and grants after he had become principal. I asked him whether he had ever received any written document. He said no. I asked him whether he had ever talked with anyone over the phone. He said that he once had a phone conversation with a front-line officer, but that officer did not seem to know more than he did. He said he was very worried, because he simply did not know how to spend such huge amounts of money. Even after granting approval to students' applications, he said, large amounts of funds were still left. He was worried about what he should do in the following year, because funds would continue to accumulate year after year. I asked him whether that front-line officer had offered him any advice and whether he had tried to seek some guidelines. He said no.

President, I must point out that the principal himself was also to blame, because even if he was completely ignorant as he alleged, and the regional education officer could not offer him any guidelines, he could still make enquiries with officials at a higher level in writing. But he did not do so. In that case, where does the responsibility lie — the school or the EC? President, I surely think that the school should be held responsible, but I also think that the EC and the Secretary for Education should likewise be held responsible. What is the point of having a government? A government is supposed to provide a fair and just environment in which people can live. The purpose of collecting taxes from the public is not to get money for filling the Government's pockets or for amassing huge reserves. Rather, the Government should spend public money properly on performing its duties, and one of the Government's duties is to play the supervisory role.

President, that day, when we asked the Secretary for Education why he had not played any supervisory role, we were all incensed by his reply. He said that he was "toothless". President, what kind of an answer is this one? I find a very big problem with his saying that despite his responsibility for supervision, he was nonetheless powerless in that respect. He should not talk about his being powerless to perform supervision only after problems occurred. Had he considered himself powerless to perform supervision, at the very moment when he realized his inability to perform supervision, he should have made known to others that the system might be marked by problems, and as a result, despite all his intentions, he was powerless to perform any supervisory role. He should have raised the issue immediately, but he failed to do so. What is more important and infuriating is that what he said is not the truth. The Secretary is not powerless to perform supervision as he alleged, and his talks about being "toothless" are only a lame excuse for shirking his responsibility. He has the power, because under the relevant agreements, he can take various actions, including the withdrawal of funds to force the schools concerned to accept his effective supervision, so as to realize the fundamental policy objective regarding DSS schools. What is the policy objective? The objective is that while enjoying the autonomy required for providing education of a higher quality, the schools are required to make use of the public funds granted to them to facilitate poor students' access to the quality education they provide. This is the principal objective. If such a clear-cut objective is brushed aside, and the supervisory role is completely abandoned, then why was such a system implemented in the first place? As I said just now, this system produces a very great impact on social mobility in Hong Kong.

President, the findings of an opinion poll conducted by a newspaper several months ago reveal that besides coming to a halt, social mobility in Hong Kong has even shown signs of decline. Many parents and even I myself agree to the truth of the findings. The reason is that under the policy of using the mother-tongue as the teaching medium, students' competence in both Chinese and English has turned unsatisfactory. Therefore, I have no alternative but to send all my children to schools overseas. However, President, unfortunately, many students who are sent overseas will not return to Hong Kong to contribute their knowledge and skills. Is this what we wish to see? Is this our goal?

President, I must strongly condemn Secretary Michael SUEN.

MS CYD HO (in Cantonese): I am very thankful to the Director of Audit for completing the report on the supervision of Direct Subsidy Scheme (DSS) schools by the Education Bureau, as we can see in the report whether the Education Bureau has put public money to proper uses. In fact, on the very day when the report was released, there was an immediate public outcry. What the Director of Audit initially recommended us to review was not the chapter on the utilization of funds by DSS schools, but the one on supervision by the Education Bureau. However, noticing the mounting public resentment triggered by the report's disclosure of the stock and property purchases by schools, we decided to review both these two chapters. Our hearings were covered extensively by the media, so the legislature and the community are already quite clear about the many problems mentioned in the report. Therefore, President, using the Director of Audit's report on the supervision of DSS schools as the starting point today, I wish to explore a number of issues, including the origin of DSS schools, the reasons for their very establishment, the attainment or otherwise of the policy objective, and whether there are similar problems elsewhere in the overall education system. And, I will even attempt to suggest answers where possible.

The education reform has been implemented vigorously since 1997. Although he had yet to take over as Chief Executive of the Special Administrative Region at that time, Mr TUNG Chee-hwa established a provisional office. Mr TUNG remarked at that time that there were three big mountains to be surmounted: First, education, which must be dealt with; second, the civil service; and finally, the issue of housing and property prices. However, Mr TUNG was so unlucky as to encounter the financial turmoil. While others may have the Midas Touch, he, very fortunately, just did the opposite.

Back to the education reform, we still remember that the DSS was rolled out jointly by the former Secretary for Education and Manpower and the former Permanent Secretary for Education and Manpower in 2002. The DSS was introduced against a background involving a perception of education diametrically different from the viewpoint previously held. Specifically, the question was about a choice between the continuation of egalitarianism and the encouragement of competition. Egalitarianism is actually rather negative in connotation, and the idea can actually be stated more positively as equal opportunities. However, the former Permanent Secretary also used the term of egalitarianism. Of course, in publicly-funded schools of other places, it is not uncommon to see the decline of student and staff morale as a result of

egalitarianism. There are many problems in publicly-funded schools in Britain and the United States. That is why some even say that senior students in Britain's publicly-funded schools are not quite so literate, and the elite are all from private schools.

The former Permanent Secretary even held the view that in the absence of any competition, teachers would be devoid of any motivation. Therefore, she rolled out a whole series of reform measures, one of which required teachers to sit the Language Proficiency Assessment for Teachers. This measure was put in place together with other measures as an integrated package. As the Secretary said just now, DSS schools enjoy considerable flexibility and freedom in teacher recruitment and student intake, and this can surely introduce some competition. This leads us to one fundamental question. Should competition in the context of education mean a kind of competition which is ruthless, endless and boundless in nature? What kind of competition should we be talking about? Competition that can induce people to manifest their potentials is of course most desirable. But if any competition is fierce to the extent of rendering a person unable to reach the finishing line even after running non-stop for 24 hours each day, it is definitely undesirable. The former Permanent Secretary for Education and Manpower surely had a valid point in her belief that even prestigious government schools and publicly-funded schools had not been particularly outstanding in performance either, and they had just counted on their past achievements and renown as a means of attracting students. Therefore, these schools must have one round of screening at the point of Secondary One, another round at the point of Secondary Three, and the final round at the point of Secondary Six, before they can maintain a relatively high university admission rate. In view of this, DSS schools were officially launched in 2002, and some school sponsoring bodies believed to be motivated by educational ideals were permitted to start new schools.

However, in the course of introducing partial competition, we must pay heed to certain problems, such as whether education will thus become increasingly exclusive and more like a production industry, thus undermining the competition of poor children. The Secretary for Education repeatedly mentioned in the hearings that the introduction of DSS schools would bring in more competition. True, this will be the case with financially-viable families, but families without the means will have fewer competition opportunities as a result. Although DSS schools account only for 10% of the total number of

schools, not every DSS school is exactly prestigious or outstanding in academic performance. Some of them are even schools with unique features. However, if they charge high school fees, poor students' opportunities will surely diminish. President, we are worried that the swing of the pendulum from egalitarianism will deprive poor children of any choices. In this respect, supervision of the Education Bureau is required. However, as some Members said just now, firstly, inside the Education Bureau at the time, there were no teams or personnel dedicated to the work of supervision. Even within the accounting team, as the officials of the Education Bureau said, no one was dedicated to the supervision of DSS schools. Secondly, the higher echelons of the Bureau simply did not know anything about the actual situation, so it could not have been possible for them to conduct any supervision. I am not sure whether the Secretary can still remember that we once asked him whether students who were recipients of Comprehensive Social Security Assistance could apply to the Social Welfare Department (SWD) for funds to pay DSS school fees. He replied in the affirmative at that time. However, the system had already changed. It had already changed before he gave his reply. That was why some reporters hastened to make enquiries with the Deputy Director of Social Welfare that very same day. The Deputy Director replied that this was no longer the case, and the most that the SWD would do was just to pay for their school fees for one year, and then ask them to switch to other schools in the following academic year.

Actually, in some cases, applicants for DSS admission may not necessarily want to enter any prestigious schools. Some edge students would rather be admitted to schools with unique features, in the hope that these schools can offer them education which suits their needs and abilities. It is hoped that those students who once broke the rules or were abandoned by mainstream schools can be admitted to schools with unique features, thus making it possible for DSS schools to make good use of the flexibility they enjoy. The students of such schools are not from wealthy families, and the families of some of them may even be in great financial difficulties. Therefore, if the SWD has already changed the system, but the Education Bureau is totally unaware of the change and even fails to properly monitor the provision and application of scholarships by DSS schools to ensure the admission of poor students, the opportunities open to children of poor people will only get fewer and fewer. Thus, when we heard the Secretary say that he was "toothless", we were really infuriated. We now say here that while the Secretary has all the "teeth", he has not used them at all. Such a viewpoint actually reminds us that the Education Bureau has not been true to its

words. This has nothing to do with the incumbent Secretary for Education Michael SUEN. I am talking about the former Secretary for Education and Manpower, because he promised us that poor students could have chances of admission. But the Education Bureau has not been true to its words. The present problems have nothing to do with the original intent of the DSS. Some DSS schools have indeed turned increasingly exclusive, because under the subvention system, the school fee can be as high as 266% of the subvention provided by the Education Bureau.

As for sixth-form colleges, some Members' children are also studying in these schools. The school fee is around \$110,000. In the case of primary schools, the fee is about \$60,000. It can be seen that the starting point of these schools is so very different from that of ordinary schools, right? It is all right for parents to send their children to these schools if they have the means; we really should not prevent parents from doing so. However, we must ensure that bright students can likewise have chances of admission. Therefore, what we have been discussing and what we have urged the Secretary to follow up is that he should see to it that in the future, DSS schools should first determine whether a student can be given any scholarship before deciding to admit him, so that the student can make a decision on the admission offer based on the availability or otherwise of subsidies. Otherwise, no matter how bright they are, students may not dare to apply for admission lest they may not be qualified to apply for subsidies after admission. When this happens, they will be at a loss as to how they can cope.

Besides, the ceiling for family assets shall also be relaxed. Good Hope School has relaxed its ceiling under social pressure. Before the relaxation, only students with a family income below \$7,000 could apply for 50% fee remission. How can this be acceptable at all? Some students were simply barred from admission. Therefore, Secretary Michael SUEN, please examine all the schools one by one, particularly those flooded with cash and charging exorbitant school fees. If any school is so flooded with cash that it can even spend over \$50 million on purchasing stocks, it must probably be charging excessive school fees. It is just like the Financial Secretary, who must now hand the money back to the public after imposing so many fees and charges in the past. In fact, if a school is flooded with cash but has no long-term development plans, it should consider lowering its school fees, or allocate a substantial portion of its reserves for granting scholarships.

Indeed, the schools themselves should also be held responsible, only that our audit target is the Education Bureau, not DSS schools, because the latter receive less than 50% of their incomes from the public coffers. I believe that our auditing legislation should also be revised, because it provides that the Director of Audit shall only audit those organizations which receive more than half of their incomes from public money. Therefore, the Director of Audit's target of auditing this time around was the Education Bureau, because it is fully funded by public money, and DSS schools were covered only when the investigation proceeded downwards. I think that this is what we need to review and change, because both the land lots granted to them and the original amounts of subvention all came from the public coffers. Therefore, these schools should not hold themselves accountable to current students and their parents only. Since they receive money and land from taxpayers, these schools should also hold themselves accountable to taxpayers. And, since many students outside these schools may want admission, they should not restrict consultation to current students and their parents when considering school fee increases. This is not enough, because out there, the children of many parents may also want admission. Another point is that since these schools are spending taxpayers' money, they can avoid supervision only if they convert themselves into private schools.

President, another point I want to raise is about the long-term development reserves of these schools. We observe that if a school wants to construct a swimming pool or additional buildings, it may try to recover all the expenditure from the collection of school fees in the ensuing years. However, this practice is not appropriate, for it is extremely unfair to the students studying in the school at the time. Therefore, one topic that should be covered by the review to be conducted by the Education Bureau later should be the provisions for the long-term development of DSS schools. Such provisions should only account for a certain reasonable percentage of the school fees collected, instead of spending all the school fees on school development. Moreover, schools must not increase their school fees by 7% before they have even drawn up any development goals. That they can do so now is due to the fact that rather than requiring any approval from the Education Bureau, they need only to consult parents. Therefore, I wish to ask the team to be set up by the authorities to take this point into account. The most important principle for DSS schools is "education without discrimination". Even though parents have to pay higher school fees, these schools should still adhere to this principle in their operation.

One more point is about flexibility. We often refer to the advantages of flexibility. In the case of teacher recruitment, for example, offering higher salaries to good teachers can serve to retain them. And, we also talk about the advantages of the flexibility enjoyed by DSS schools in student admission. Therefore, many people say it is indeed very wonderful that DSS schools can enjoy so much flexibility. In that case, I must ask why government schools and subsidized schools are not given similar flexibility. Why is it impossible to give government schools and subsidized schools a bit of flexibility while keeping the levels of subvention unchanged? Since teachers in government schools and subsidized schools are also paid according to the government pay scale, why is it impossible to allow for flexibility up to a certain percentage, so that teachers with good performance can receive higher salaries? Of course, this will involve significant changes in terms of policy principles and administration, but if the Education Bureau also believes it is desirable to let schools adopt flexible management strategies, why does it not extend the advantages to government schools and subsidized schools? DSS schools can certainly implement small-class teaching, because with the exorbitant school fees they have collected, they are surely capable of doing so. But even government schools and subsidized schools should be capable of adopting the mixed mode of large-class teaching and small-class teaching. In the case of subjects like Chemistry and Biology, discussions in small classes will not make the appendix split into two, so to speak, because chemical processes and changes will remain unchanged. For this reason, large-class teaching can be adopted for these subjects. In contrast, languages and Liberal Studies are best taught in small classes. If the authorities can permit schools to have the flexibility of adopting the mixed mode of large-class teaching and small-class teaching, schools may even make arrangements for the brighter students from the same forms to have lessons in large classes, because one teacher can lead a larger number of students. On the other hand, students who are not as bright can have lessons in small classes. Such flexibility is totally attainable without changing the levels of subvention.

President, DSS schools enjoy freedom and flexibility. However, such freedom is not meant for determining school fees; rather, it is meant for enabling them to provide quality education to the young generation. Therefore, I hope both the Education Bureau and the existing management of DSS schools can, by making good use of their freedom and flexibility, truly implement the precept of "providing education that suits students' needs", so as to bring forth a diversified range of schools to tie in with our diversified social development.

Lastly, I want to talk about the cash handout. The Government needs to undertake many tasks, but how should it distribute the money? I believe that even if all the money was donated to schools, it might not necessarily be possible to found a new school. Therefore, instead of handing out cash, the Government should earmark some money for the Education Bureau to implement small class teaching. This is an achievement it must make and a task it must undertake. Thank you, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, since the implementation of the Direct Subsidy Scheme (DSS) by the Government in 1991, DSS schools were almost free from regulation over the past two decades. This situation went on until the Audit Commission uncovered the administrative chaos of DSS schools last year. DSS schools were not required to rectify their mistakes and comply with the rules due to the Education Bureau's negligence in monitoring. Of course, this is an unfavorable outcome mainly caused by the Education Bureau's refusal to perform its monitoring duties.

It was precisely because the Education Bureau had not addressed the management issues of DSS schools, the DSS became problematic and full of defects. For example, the schools could underestimate the projected accumulated operating reserves, and for this reason, they might lodge an application for a substantial increase in school fees; they could also use non-government fund to purchase properties or use the rest of the fund for investment. Parents and members of the public were presented a clear picture of all these ridiculous practices only after the disclosure by the Audit Commission.

Apart from the various issues mentioned above, what we are more concerned about is that the Education Bureau's efforts in monitoring DSS schools' implementation of the fee remission scheme to ensure that expensive school fees will not affect the admission of students in poverty into DSS schools are far from adequate.

As required, all DSS schools should have fee remission/scholarship schemes in place and set aside fund to these schemes on the basis of 10% of the total school fee income. In addition, if the utilization rate of the fee remission scheme of a DSS school is too low to the extent that its reserve for the fee remission/scholarship scheme accumulates to an amount that exceeds half of its

annual school fee income, the school would be required to submit to the Education Bureau a deployment plan on how to use the surplus. Also, the guidelines on the fee remission scheme set out clearly that schools should promote such schemes as far as possible to ensure that students and parents — in particular those in poverty — applying for admission to DSS schools have access to such information.

However, many DSS schools have not followed these rules. On one hand, they have not set aside sufficient fund for fee remission purpose; on the other hand, families in poverty know nothing about the fee remission scheme due to poor flow of information. This will prevent students in poverty from having opportunities to study in DSS schools.

Confucius championed the idea of "teaching everyone without discrimination" as early as 2 000 years ago. Nevertheless, it is unexpected that nowadays there are still school sponsoring bodies that, knowingly or unknowingly, refuse to open the door to the poor. This practice will only widen and deepen the inter-generational poverty problem and greatly reduce the opportunities for upward social mobility for students in poverty.

Not just the school sponsoring bodies, the Government has also played a part in this. In fact, the Social Welfare Department has advised the parents and students from families receiving Comprehensive Social Security Assistance (CSSA) not to enroll in DSS schools, as once they are admitted to DSS schools, in general, the Government will not release special grants for school fees under the CSSA. Are DSS schools only for the rich? Does the Government consider that students from CSSA families should not study in DSS schools because of the expensive school fee? Moreover, as the Government pointed out in the hearing, not all DSS schools charge expensive school fees. If so, what reasons does the Government have for barring children from CSSA families from the opportunities to study in DSS schools?

In fact, it is believed that among the DSS schools, there are only a few cases of deliberate non-compliance. Recently, I have got in touch with the principals of individual DSS schools. They said that in this Audit Commission saga, the Education Bureau had not contacted individual DSS schools and advised them to make the necessary improvements. The respective schools could only learn about their situations from the media. What is more, they found the Education Bureau's treatment of not giving them any chance to explain on the

areas that needed improvements and simply making public the list of the schools really unfair. I think the Education Bureau should apologize to these schools.

I think it is of great importance that effective measures will be adopted to ensure that students from grass-roots families can enjoy equal opportunities to study in DSS schools. I hope the Government can review the existing CSSA policies expeditiously to ensure that there will be no chance of any discrimination against CSSA students' admission to DSS schools. At the same time, the Education Bureau should carry out effective measures to ensure that no income for fee remission/scholarship will be withheld or pocketed by schools.

A review of the records of the Public Accounts Committee shows that in fact the Education Bureau issued advisory or warning letters to some DSS schools of non-compliance. Nevertheless, given the Government's "making a strong start but ending up with a poor finish" culture, the Education Bureau failed to follow up the cases subsequently, and as a result, the situations kept worsening. Hence, the Education Bureau's remark that it was "toothless" to monitor DSS schools is obviously a shirking of responsibility.

The situation is like the parents telling their children that it is wrong to do so after they have made mistakes, but the parents impose no punishment on their children afterwards and even allow them to continue to make mistakes. If so, how can the children learn a lesson? Eventually, it is very likely that the children will make mistakes repeatedly.

Afterall, DSS schools involve the use of public money. The Education Bureau should play a proactive role in monitoring instead of focusing only on the education quality of schools, as students, parents and the education sector will all become losers if the Education Bureau continues to address the non-compliance of schools with a lenient and tolerant attitude. I hope that the Education Bureau would become wiser after the incident and it is never too late to mend the fold.

President, I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): President, regarding the various management problems with Direct Subsidy Scheme (DSS) schools revealed by the Director of Audit's Report (the Audit Report), the Education Bureau and DSS

schools should heed the advices of the Legislative Council and the public to enhance their transparency and conduct serious reviews, so as to improve supervision. I will put forward my views particularly on the issues of equity and justice in the context of education, covering the admission of poor students to DSS schools, especially those charging exorbitant school fees.

When the Government rolled out the DSS 10 years ago, it undertook that no students would be denied opportunities of admission to DSS schools due to poor family finances. However, after the development of the DSS over all these years, it is observed that the school fees charged by some DSS schools are very high, and the crisis of class distinction in education has gradually taken shape. This is an undeniable fact. I do not think that this has anything to do with whether or not the Education Bureau is "toothless". Rather, I think that all is the result of lax supervision, a shoddy system and sheer indifference. Honestly, not all DSS schools have turned exclusive to the privileged few or the middle class. However, as long as these schools remain publicly-subsidized; as long as this trend shows any deterioration in any schools, society must squarely address this phenomenon, especially when many prestigious government schools and subsidized schools with a long history choose to become DSS schools one after another and charge exorbitant school fees. Such schools, including prestigious schools with quality education resources, used to open their doors to all social strata, but they no longer do so now, and have become a privilege exclusive to the well-off classes. That DSS schools possess more resources and freedom than subsidized schools constitutes a form of unfair competition, which plunges both non-DSS schools and poor students into a disadvantageous position. Admittedly, DSS schools are required to offer scholarships, but currently only around 10% of their students are granted subsidies, meaning that these students are still the minority in their schools, and in many DSS schools, the proportion is even less than 10%. "Choices for parents" is true only in the case of well-off families. Poor families enjoy fewer choices instead.

Many Members present here were born to grass-roots families. Thanks to the availability of equitable and universal education, and with their personal endeavours, they were able to climb up the social ladder. Nowadays, the disparity between the rich and the poor is getting more serious as a problem in Hong Kong. If there is even a blockage in the only channel of upward mobility for the grassroots, that is, access to education, the core values of Hong Kong will all be contradicted. I believe most DSS school teachers do uphold the

conviction of "education without discrimination", only that the defects of the system have rendered them unable to materialize this conviction. As a matter of fact, class distinction is no good to students and society alike. If students with overly similar backgrounds are invariably grouped together, there will be a shortage of chances for students with different backgrounds and from different social strata to get to know and understand one another. This is not conducive to the cultivation of broad horizons and empathy among the young generations and will only serve to intensify social conflicts and contradictions. Therefore, the authorities must rectify the DSS system. On the one hand, the opportunities for poor students to be admitted to DSS schools must be enhanced, so as to truly increase the choices available to parents; on the other, the support for publicly-funded schools must be stepped up, so as to upgrade the overall education quality and enable publicly-funded schools to compete positively with DSS schools.

Secretary Michael SUEN has remarked that in regard to DSS schools, the following principle is adopted: "Regulation of what should be regulated in accordance with the law.". I think there are several areas that require regulation:

First, the uses of school fees must be regulated to ensure that they are always spent directly on students. In order to curb unreasonable school fee increases, the authorities should impose regulation on how DSS schools use the school fees they have collected. All the school fees collected by DSS schools must be spent on students and teaching activities. School fees must not be spent on any other purposes, campus expansion not excepted. In case of campus expansion, DSS schools must muster funds from other sources. For example, a school may apply to the authorities for additional funding or the school sponsoring body may organize fund-raising campaigns. School fees must not be used, or the pressure of school fee increases will mount, doing unfairness to students and parents.

Second, the upper limit of school fees must be regulated to preclude the emergence of "exclusive" schools. The authorities should revise the existing mode of granting subsidies to DSS schools. At present, as long as the school fee per student charged by a DSS school does not exceed 233% of the average unit cost of subsidized schools, it will be granted full recurrent subsidies by the Government. This is indeed a very high level, particularly because the unit cost of schools has been increasing incessantly. In the 2009-2010 academic year, for

example, the estimated unit cost of subsidized secondary schools was \$41,130. Given such a unit cost, even if a DSS school increases its school fee to \$100,000, the Government will still grant full subsidies to it on the basis of its actual student number. In other words, the higher the school fee, the larger the amount of subsidies will be. This has indirectly induced schools to increase their school fees. And, increases in unit costs may also induce schools to increase school fees more quickly. I propose that the amounts of government subsidies should be reduced proportionately when the school fees charged by a school exceed a certain reasonable level. This can encourage schools to charge lower school fees and avert the widening of resource disparity among different schools due to incessant school fee increases.

Third, financial reserves must be regulated by setting a ceiling. It is unreasonable for some DSS schools to apply for school fee increases while possessing huge financial reserves. I think the authorities should set a ceiling for DSS schools' financial reserves. If their reserves exceed the ceiling, the amounts in excess should be returned to the Government or used directly for teaching purposes. In fact, the present school fees charged by certain schools have exerted heavy pressure even on middle-class parents, not to mention other parents. Setting a ceiling for schools' financial reserves can create room for the downward adjustments of school fees.

Fourth, student admission must be regulated to ensure the inclusion of poor students. At present, DSS schools must set aside at least 10% of their total income from schools fees for the purpose of providing school fee remission, but this has still failed to ensure the admission of poor students. The Audit Report has revealed the problem of inadequate transparency in the case of certain DSS schools. As a result, some parents are not aware that these schools can provide scholarships for application. This of course requires improvement. However, school fees aside, other expenses, including those on various extra-curricular activities, study tours and social gatherings among classmates, have also deterred grass-roots families. Besides, peer comparison may easily produce psychological pressure on students and create inferiority complex. I think the Government should put in place a mechanism requiring DSS schools to earmark at least 10% of their school places for central allocation, so that students from all social strata can have equal opportunities of receiving allocation of places in these schools. Poor students who are allocated DSS school places should be given full subsidies of their school fees and expenses on extra-curricular activities during

their periods of studies, with a view to enabling all students to learn in a stable environment. This can ensure that no academically-capable students will be denied opportunities of admission to their desired DSS schools through lack of means.

Fifth, the issue of equity must be regulated to ensure fair treatment to other subsidized schools. While seeking to improve the opportunities for students from the lower social strata to enter DSS schools, the authorities should also strive to provide quality education in publicly-funded schools and subsidized schools. In order to induce some subsidized schools to convert to DSS schools, the authorities have offered them many favourable terms and conditions which have gradually widened the gap between DSS schools and subsidized schools. The inequality in education has turned even more serious over the past decade. The authorities should have adopted the principle of "positive division" to provide more support to schools admitting underprivileged students. However, the DSS simply runs counter to this principle, with the result that students from well-off families are allocated more resources, while underprivileged students are given far less resource support, in contrast to their well-off counterparts. This is a strange policy of resource redistribution. Because of this policy, DSS schools can enjoy greater freedom, and with the additional resources available to them, they are able to turn better teacher-student ratios into a reality and implement small-class teaching as a general practice. How come it looks like all these measures that can effectively improve teaching have become privileges exclusive to DSS schools, rather than something that all students in subsidized schools can also enjoy? The Government has always emphasized that education is a good solution to inter-generational poverty. But it has altogether disregarded the issue of equity in education. On the one hand, it speaks highly of the pluralism brought about by the DSS, allowing DSS schools to implement small-class teaching. On the other hand, it openly queries and gainsays the effectiveness of small-class teaching, evading the demand of the education sector for implementing small-class teaching in all primary and secondary schools as a means of upgrading the overall quality of universal education. Therefore, the authorities must re-examine the present mode of resource distribution, so as to bring it in line with the principle of equity.

I believe that the abovementioned recommendations will only remedy the defects of the DSS and make it possible to honour the undertakings made at the

very beginning, rather than hindering the long-term development of DSS schools in any way. Recently, we have heard a voice in society which advises against any overkill in the course of reviewing the governance of DSS schools, for fear that the role of DSS schools in the provision of pluralistic education may be nullified. The authorities have also repeatedly emphasized that the DSS has been introduced for bringing forth pluralistic education. But even so, we must still ask ourselves what is meant by pluralistic education. What is of pivotal importance to pluralistic education should not be the modes of school subsidy. Rather, it should be the educational convictions of schools. As long as a teacher can remain professionally dedicated and seek to uncover his students' variegated potentials by adopting appropriate pedagogical approaches that suit his students' spectrum of abilities, he will succeed in bringing forth pluralistic education.

If any measures are deemed to be aligned with the professional principle of education, all schools, whether they are DSS schools, should have the right to benefit from such measures, and no schools should be treated differently due to their varied modes of subsidy. Therefore, publicly-funded schools should likewise be given such room, and should be allowed to develop their own features and provide pluralistic education. Small-class teaching, a satisfactory teacher-student ratio and teachers' professional autonomy are the "infrastructure" of pluralistic education, rather than the "privileges" of DSS schools or certain DSS schools. DSS schools and publicly-funded schools should not be perceived as mutually exclusive in relationship. If they are perceived that way, publicly-funded schools will only be reduced to second-rate schools in an environment of unfair competition, thus further intensifying class distinction in education. This precisely will not be conducive to the development of education diversification. I hope the authorities can strive to improve the "infrastructure" of schools in Hong Kong, upgrade the overall education quality and materialize the kind of pluralistic education which the Government aspires to.

Education is the most important policy area to parents; children are parents' greatest hope, considered by them as far more important than the cash handout of \$6,000. If Hong Kong's publicly-funded education system is marked by the co-existence of subsidized schools for the common masses and DSS schools for the privileged and the middle class; if the provision of education is no longer based on equality, or if equality for all is qualified by more equality for some as described in the novel *Nineteen Eighty-Four*, then class distinction in education

will emerge, thus depriving children of a fair starting line. All this will form the very basis of social discontent and anger. By a fair starting line, I mean to say that even though we admit that children may be quick or slow in learning, bright or dull as a learner, and successful or unsuccessful in their lives, they should all set off from the same starting line. A fair starting line in education should be available to all people and students without any variation. If not, people's discontent with education and other deep-rooted social conflicts will snowball. This will push people's anger to the breaking point. This will push their anger to the breaking point of challenging the Government. This will form the very social basis of a revolt against official oppression. Therefore, reforming the DSS is a highly complex and perplexing task. Michael SUEN has referred to his 11-word principle, and I will give him three words in return: Equity and quality. By equity, I mean the provision of a fair starting line as the basis. How far and how fast students can go are questions to be answered in the future, but the starting line should be fair. By quality, I mean all quality for all schools. All schools, be they DSS schools or subsidized schools, should enjoy the same right to quality. In this way, our students may choose either DSS schools or subsidized schools. With a fair starting line, they can go higher and farther and have a better future as far as their own abilities permit. However, the Government should provide a kind of equitable and quality education that is accessible to all students, so that they can pursue brighter, broader and loftier prospects for themselves. This should form the very basis of education. This is education workers' aspiration and parents' keen expectation. Thank you, President.

MISS TANYA CHAN (in Cantonese): Mr CHEUNG Man-kwong pinpointed the problems with the Government just now. What are these problems? These are problems of poor governance, belated awareness and disrespect for public opinions. If people voice their aspirations amicably, the Government would not listen to them. But when people's patience wears thin, and they all talk about taking to the streets, the Government would be scared into reversing its position and admitting its fault. From which incidents can we observe these problems? I think that the landfill incident, the bid to host the Asian Games and the transport subsidy dispute last year, and even the recent Budget can all show that these problems with the Government have been expanding in dimensions, and even spreading outwards. The problem with the Chief Executive is especially severe and in a way unique, because he suffers from persecutory delusion; just a simple

shove was surprisingly described as an attempt to challenge the ruling regime. I really find this very puzzling, and I hope this problem will not spread outwards.

Today, in our discussion on the issue of Direct Subsidy Scheme (DSS) schools, we can likewise use a few simple words to describe our feelings. This report is a piece of "homework" that has taken Members a long time to complete. Words such as "surprised" and "unacceptable" are used in the report. Of the 72 DSS schools, as many as 71 kept messy accounts. Some schools even spent their funds on property and stock speculation, and some used public money for renting a place to construct kennels. I was puzzled by all this.

The Education Bureau's unsatisfactory supervision of DSS schools has resulted in the disorderly financial management or irregularities in some of these schools. At the end of last year, when problems with the books and management of some DSS schools came to light, Secretary Michael SUEN remarked to our surprise that he was "toothless" in respect of supervising DSS schools. By describing himself as "toothless", did the Secretary mean that parents and students were not? It was only after the Public Accounts Committee (PAC) released its report on the "messy accounts" of DSS schools, in which such words as "grave dismay", "unacceptable", "surprised", "dismay" and "disappointment" were used to comment on the Government's supervision of DSS schools, that Secretary Michael SUEN eventually announced the establishment of a working group. The working group is to be chaired by the Permanent Secretary for Education, with six professionals and four Education Bureau officials as members. The group will commence studies on measures for improving the governance of DSS schools. We certainly think that this is a belated move, because DSS schools have been in operation for 20 years before we know it, but it is not until today that we discover so many defects and loopholes awaiting being rectified step by step. Anyway, as the saying goes, "It is better late than never." As pointed out in the Secretary's reply on 16 February, the most important thing is for us to learn from experience. Life is just like this very often.

All along, the problem with Hong Kong's public-sector school system is not so much about "too little supervision". Rather, it is all about "excessive supervision", meaning that supervision is much too detailed, much too specific, much too rigid and much too inflexible. Issues ranging from curriculum

development to teaching materials, from teacher qualifications to manpower allocation, and from campus management to campus design are all under the strict supervision of the Education Bureau officials. All matters, significant or trivial, are subject to the regulation of the relevant guidelines and notices. It is practically impossible for school principals, teachers, school sponsoring bodies, parents and alumni to carry out any reform in case they want to deploy resources flexibly to cope with the circumstances and needs of students.

However, the case of DSS schools is completely different. The Government seems to be swinging from one extreme to the other Excuse me for being so blunt, but we sometimes really think that the authorities have been conniving at DSS schools. The Secretary has talked about division of labour, but I find it hard to imagine why the regulatory provisions can still be so empty and full of loopholes despite the Government's claim that it has been supervising and monitoring the operation of DSS schools. For example, a newspaper once quoted a set of guidelines specifying that DSS schools may use funds for fee remission and scholarships to subsidize students' purchase of textbooks, reference books and stationery or subsidize their participation in extracurricular activities, including overseas study tours or exchange programmes. Of course, using resources flexibly is important, but failing to comply with guidelines is also a serious problem. It is certainly very good that DSS schools can have more resources to subsidize students' purchase of stationery and reference books, or even subsidize their participation in extracurricular activities and study tours. But we hope that the authorities can treat everybody equally. At the same time, clear guidelines, especially those of financial management and control, are very important.

The PAC report mentions that regional and middle-level officials often failed to report compliance problems in DSS schools to officials at the higher level, with the result that the Secretary had all along been unaware of certain problems. As I said just now, we must learn from experience and be forward-looking. It turned out that the Education Bureau did not have any high-level body to oversee DSS schools. This is pointed out by Members in the report, and they are really surprised. Five divisions in the Education Bureau are involved in overseeing DSS schools, but there is no dedicated division for overseeing the operation of the DSS. There are totally 153 officials in the Education Bureau's regional education offices, and they are responsible for providing all schools with administrative and development support. However,

only 5.4 officials were involved in overseeing the operation of DSS schools last year, representing 3.5% of the total manpower. This means that one official had to support 13 DSS schools. In contrast, in the case of providing assistance to subsidized schools, the ratio was approximately 1:6. In addition, the Education Bureau deployed only 0.9 auditor (less than one auditor) to audit four cases of DSS school accounts in 2005. The number of auditors increased to 2.5 only as recently as in 2010, and the cases audited increased to 12 in number. From this, we can see that manpower was extremely tight, or it can be said that when making manpower arrangements, the Education Bureau did not pay proper heed to the problems in DSS schools. Of course, the system aside, there must be the support of manpower.

According to the PAC, several schools have not yet entered into school sponsoring body service agreements with the Education Bureau. In some cases, the signing of the agreement was overdue for eight years. This reflects that the Education Bureau did not duly perform its duties in this regard, in a way allowing the "unlicensed operation" and non-compliance of the schools concerned.

We note from the paper that up to 30 June 2010, five (nearly 10%) of the 57 schools that were required to enter into the service agreement with the Education Bureau still had not done so, and the signing of the agreement had been overdue for about 18 months to eight years. Of the 52 schools which had entered into the agreements, there were delays ranging from several days to seven years in respect of 26 schools. President, it was seven years, which means that some schools had not entered into an agreement even after some students graduated.

Today, I have talked with Dr LAM Tai-fai about this issue — by the way, the Secretary is not present now. Dr LAM said that in some cases, the schools concerned had already signed the document and submitted it to the Education Bureau, but they never got any reply. We all know that an agreement involves two parties, so apart from the signature of one side, the signature of the other side is also required. This point is also mentioned in the report, and I suppose it was because the two parties needed time to negotiate the terms of the agreement. However, I note that after the publication of the Audit Report, the whole process was immediately expedited like an accelerated car. There were frequent contacts and liaison, and many agreements were concluded after the publication

of the Audit Report. I hope that they can continue to maintain such a speedy arrangement and move forward in this direction.

This task must be undertaken expeditiously, for these schools have been in *de facto* "unlicensed operation", much to the worries of parents indeed. No parents will bother to ask a school whether it is licensed because they have always counted on the Education Bureau in this regard. However, it turns out that the signing of the agreement could be overdue for as long as seven to eight years. The schools had not yet entered into the agreement even after the graduation of students. The perspective of the public should be appreciated. They will be worried and may even lose confidence in the Education Bureau.

The publication of this PAC report was preceded by prudent and thorough-going hearings and follow-up. It has criticized the Education Bureau for evading responsibility and failing to effectively oversee DSS schools, and expressed grave dismay in this regard. The PAC has also pointed out the major cause of the messy administration of DSS schools is the lack of effective supervision, and it has also put forward several recommendations. I very much hope that in due course, that is, in the very near future, the Education Bureau can report to the Legislative Council Panel on Education on the progress and situation of the matter, including the progress of establishing the dedicated working group they mentioned earlier.

Schools and parents alike want to provide children with the best education. Therefore, problems with schools will not only affect the schools themselves but will also make parents worry. What worries parents most is not merely the quality of schools, but also the possible impacts on their children's academic performance. They are worried that their children's personal, social, intellectual, physical and aesthetic development may also be affected.

The problems uncovered by the Audit Commission deserve the reflection of the Government, DSS schools and parents. The Secretary for Education certainly cannot evade responsibility and must take expeditious remedial actions. I also hope that he can rectify the problems associated with the DSS, so that it can continue to make contributions to the provision of education in Hong Kong.

I believe that the Secretary is not "toothless", and I further believe that if the Secretary, his staff in the Education Bureau and the civil service team are

determined, nothing will be impossible. If they are determined, many problems can be overcome, and the objective can ultimately be achieved. Let me give an example. Today we saw an advertisement published by King's College Old Boys' Association — I am not going to mention its title. It can show exactly that if he has the determination, the Secretary can exercise very extensive powers. I hope that the Secretary can respect the constitution of school management committees when handling certain issues. As a Director of Bureau, Secretary, you are actually the most important person. If you do not respect the constitution of school management committees when dealing with such issues, how can you expect the management of DSS schools to respect the guidelines and regulations formulated by the Education Bureau?

I so submit.

MR WONG YUK-MAN (in Cantonese): President, there are 10 Members in the Chamber now. If I play any tricks, you can go home for a rest because some Members are unable to return to the Chamber now. This meeting has been going on for four days, from Wednesday to Thursday, to Friday and to Saturday. We are all very tenacious indeed. Together with Mr Abraham SHEK, there are only 10 Members in the Chamber now. And, he is present only because he will speak a moment later.

Timing is sometimes very important. Secretary SUEN, you are really lucky. You have always been lucky. Many Members have left, and only a few Members are going to speak. You also expect me to criticize you, and I have prepared a scripted speech already. After several days of meeting, I can only use two words to describe all of us now — totally exhausted. President, you are really something. I do admire you. But you do not need to stare at me in this way. I will go on.

I am very thankful to Dr Philip WONG, Chairman of the Public Accounts Committee (PAC), for moving this motion. This brings me back to the days when I worked under Chairman WONG in the PAC some years ago. Our workload back then was really very heavy. There are several PAC members here now. Mr Alan LEONG is no longer a PAC member; he and I have both resigned. But others such as Mr Paul CHAN, Dr Philip WONG, Mr Abraham SHEK and Ms Starry LEE are still members. Members of the PAC are so very supportive, for nearly all of them are present now. Secretary SUEN, let me tell

you that only Mr Andrew CHENG and Mr Ronny TONG are missing. I know Mr Ronny TONG must go for a ball game today He is coming back now. So, I must say sorry to him.

In its Report No. 55, the PAC expresses "grave dismay" that the authorities failed to ensure timely rectification of the serious irregularities of Direct Subsidies Scheme (DSS) schools, and the problems were simply dealt with as operational issues without adequate appreciation of the need to bring them to the attention of the Secretary for Education for policy review, and there was no dedicated body in the Education Bureau to oversee the DSS school organizations. If I were still on the PAC, I would definitely not permit the use of the expression "grave dismay". The expression "extreme indignation" should be used instead, "buddy". I do not know whether this expression is found in the handbook, or prescription, I used in the PAC years ago. If this expression is not there, then the expression "condemnation" should be used. There should be such an expression. The expression "strong condemnation" should be there, right? However, this PAC Chairman of ours is always very lenient. So, the Secretary is very lucky again.

Secretary, the King's College Old Boys' Association has taken out an advertisement today, demanding your stepping down. I suppose you will give some sort of response later on. But this is not the only issue now. I can tell you that the class reduction issue is a very thorny one. Secretary, I often describe you as the most slippery of all Directors of Bureaux. It is really not a commentary as such. You know, I just like to give people nicknames. Years ago, for example, I dubbed Rafael HUI as "Perhaps Human". I likewise gave Joseph YAM a nickname. And, I also dubbed you as "The Cunning Old ____". Please fill in the blank. I know you are not at all happy about this. But I must say that you really possess a very special talent. Later on at this meeting, Members can once again see for themselves how you display this special talent of yours. Ever slippery, you can remain standing for 30 minutes to give a reply, but cannot in any way make me understand what you are talking about. But then, it invariably looks like you have said a lot. I have come across many Directors of Bureaux, but no one is as talented as you are, in that sense. Secretary Matthew CHEUNG can somehow slightly grasp the essence of this talent, but he is still a long way behind. As expected, you will behave exactly like this when giving your reply later on. But of course, this is outside the scope of our discussion now.

This PAC Report reveals a very acute social conflict — the DSS has actually turned the children belonging to the lower social strata away from DSS schools. It is not my intention to label anybody, but this is indeed one of the reasons for inter-generational poverty. The Report expresses dismay three times in this regard. First, it expresses dismay that some DSS schools have not set aside the required 10% of their school fee incomes for the purpose of their school fee remission or scholarship schemes. Second, school fee remission or scholarship schemes are not adequately publicized, with the result that in 14 DSS schools, the utilization rate of their school fee remission or scholarship schemes was 50% or less. Third, under the existing policy, the Social Welfare Department does not offer any special grant for school fees to students in receipt of Comprehensive Social Security Assistance (CSSA), thus depriving such students of the chance to enrol in DSS schools.

When the Government first launched the DSS, it emphasized that students would not be deprived of the chance to enrol in DSS schools as a result of lack of means. But the Audit Report shows clearly that the actual situation is a far cry from the policy intention. Some DSS schools have not set aside any funds for the purpose of their school fee remission or scholarship schemes, or have failed to adequately publicize such schemes. And, the existing policies of CSSA and social security are unable to provide appropriate support. As a result, poor school children are deprived of the chance to enrol in DSS schools. Some may argue that poor school children may enrol in government schools or subsidized schools, and they may still succeed academically and make a mark in society. However, DSS schools have highlighted the fact that the DSS has turned increasingly unfair, and the distribution of social resources has tilted towards well-off students, which is in contravention of the educational principle of teaching everyone without discrimination and the concept of equity.

Over the past 10 years, the number of DSS schools has increased drastically due to the whole series of education reforms. For example, under the new Primary One School Places Allocation System, schools are deprived of their autonomy. Furthermore, under the Secondary School Places Allocation System, the bandings of schools are reduced from five to three, making prestigious schools fear that this may lead to a decline of student quality. There is also the policy of using the mother tongue as the teaching medium implemented by former Chief Executive TUNG Chee-hwa. This policy has not only victimized a whole generation of students but may have also forced some secondary schools to

switch to the use of the mother tongue as the teaching medium. Another point is that prestigious schools with a long history have chosen to convert to DSS schools one after another. Since they need not worry about student intake, they can set their annual school fees at \$40,000 to even over \$50,000. St Paul's Co-educational College charges the highest school fee among all DSS schools in Hong Kong — as much as over \$50,000 a year. After converting to DSS schools, prestigious schools do not need to join the school place allocation system and can enjoy autonomy in student admission. Parents' choices are further reduced, so DSS schools become exclusive to the privileged few.

In order to send their children to prestigious schools, parents who have the means all advance the competition to the starting line. As a result, children are deprived of their ingenuousness and forced to learn many things, countless many things. A child has to speak Putonghua even at the age of three. Is that not very crazy? Naturally, parents all think that they must do so in order to nurture their children into the cream of society in the future or else big trouble will ensue. Since every parent thinks that way, our society, as we can all observe, has turned increasingly unfair, and conflicts are bound to become more and more numerous. This problem is similarly very serious in the Mainland. Some friends of mine have told me that in Shanghai and Beijing, people must pay money through the "backdoor" in order to get their children into prestigious schools and international schools, and the amounts involved are very huge indeed. To begin with, this capitalist society of ours is one which has always emphasized functional thinking. It is extremely utilitarian and myopic in outlook, completely devoid of any structural thinking. As a result, even education has come to be perceived in this way. We need only to look at parents' responses to realize this situation.

Dr Philip WONG, you are really such a nosy-parker, aren't you? The Audit Commission is likewise a busybody, right? Parents just do not think that way. They do not see anything wrong. They think that it is all right for DSS schools to make investments and engage in stocks speculation. In the past, all parents also supported the education reform. Well, their sons were students in King's College or Diocesan Boys' School, so they of course supported the education reform. As long as the reform did not apply to their children's schools; as long as their children were not affected, they would think that the authorities could introduce any reform they like. The release of the Audit Report has not made parents think that they are the victims. They will never think that way. Rather, they will think: "Sudden spring breezes have rippled the

surface of the pond, but what has that got to do with you?" Many parents think that way. This is really a great problem. How has the problem come about?

Prof CHOW Po-chung of The Chinese University of Hong Kong has made some very inspiring remarks. I do not know whether the Secretary has read it. Let me read it aloud to the Secretary. He said: "At present, the greatest evil of Hong Kong education is its failure to foster self-awareness, teach people how to think, make people embrace knowledge, help people live with confidence and dignity, and nurture righteous citizens who are prepared to engineer social changes and reforms. In brief, education has failed to properly nurture and cultivate the individual. In Marxist parlance, modern-day education has alienated the individual from human nature, dwarfed his status and stunted his personal development, reducing him to a commodity and making him believe that he is a mere commodity". Let me tell Members that apart from imparting knowledge, education must also cultivate the personality of the individual. Can our education cultivate the personality of the individual? These remarks of Prof CHOW Po-chung I just quoted have indeed inspired me greatly. I believe Members will also feel helpless after listening to them.

A friend of mine asked me earlier today whether I knew Mr Michael SUEN. I replied that I knew him, and he was the Secretary for Education. My friend then asked whether I could chide the Secretary on his behalf. I asked him for a reason. He replied that he had sent his younger son to the Mainland and his elder son to Australia for their education, so he must work very hard to earn money. I asked him why he had done so. He said that since local education was a failure, he would not let his sons receive education in Hong Kong, no matter how hard he must work. Therefore, he wanted me to chide the Secretary. Well, I am not going to chide the Secretary; I will only relay my friend's opinions to him. The Secretary cannot shirk the responsibility because he is the Secretary for Education. That is why I must tell him my friend's story. The advertisement put up by the King's College Old Boys' Association is another example. I do not know whether he has read it carefully word by word, or whether he has simply ignored it. It will be fine if we can get a reply from the Secretary later on. King's College is after all a prestigious school in Hong Kong, a very famous one which has trained up many talents. Why is their reaction to class reduction so strong?

The objective of DSS schools has now changed to placing top priority on profit-making. All educational ideals, missions and even the kind of quality education they avow have been reduced to a form of packaging. This is really terrible, isn't it? "The bad example of those above will always be mimicked by those below", and "like school, like student". Those schools are profit-oriented, engaging in stocks speculation and various types of speculative activities without even the slightest bit of embarrassment. However, the Secretary simply said that he was "toothless". Even Dr Philip WONG found this remark astonishing. Why did the Secretary say so? Why was he "toothless"? Who designed the system in the very first place? There is something very wrong with his remark. Did he describe himself as "toothless" just as a kind of joke? Maybe, he actually wanted to imply: "You should understand what I mean! We allow educational institutions to enjoy maximum autonomy, so we will not interfere." Is that what he means? But this is not the case in reality.

The promotion of DSS schools has been a policy championed and implemented by the Education Bureau. This policy was championed vigorously by former Secretary for Education and Manpower Arthur LI and former Permanent Secretary for Education and Manpower Fanny LAW. Avowing that such schools would give parents an additional choice, they enticed traditional prestigious schools into converting to DSS schools, thus sowing the seed of making DSS schools exclusive to the privileged few. The culprits are the ones who first formulated and executed this education policy. If the Secretary thus claims that the responsibility should go to Arthur LI and Fanny LAW, he must at the same time realize that he must inherit the responsibility. Am I correct? If he does not need to inherit the responsibility, he would not have made any fine-tuning of the medium of instruction, and no fine-tuning will mean "eye-twitching" for him. This is also a policy left behind by his predecessor, and it is certain that he sees problems with it, otherwise he would not have made any fine-tuning.

Problems have emerged in this respect at present, and the Audit Report has been released. It focuses on the management of the DSS and the governance and administration of DSS schools. This is related to the policies formulated and executed by the Secretary. Therefore, the Secretary is definitely responsible, and he cannot evade the responsibility. He cannot reply by claiming that he is "toothless". Does he think that he is giving a "stand up" show? There is tooth implant these days. In the past, when people could only wear dentures, they were of course "toothless" in that sense, because dentures snap very easily. Nowadays, there is tooth implant, and everybody knows that

implanted teeth are very strong. Therefore, the Secretary must not crack any more jokes like this. Education is a very solemn matter. I think his talks about being "toothless" are indeed very flippant. I cannot stand such a joke. But Dr Philip WONG has been benevolent by saying that he felt astonished, surprised. How can you reply by saying that you were "toothless", Secretary? I really want to hear it from the Secretary because last time when the PAC held a meeting to discuss this matter, I was not in attendance. I really want to hear what he said.

The Secretary admitted during a public hearing that he had handled only two cases concerning DSS schools over a three-year period. I am not going to force the Secretary to eat his words. If he is in the wrong, make amends, and if he is not, just keep up the good work. The Government is already in such a complete mess now. As for the Secretary, barring any unforeseen circumstances, it is highly unlikely that the next government will retain him as a Director of Bureau. Surely, his old age will not be regarded as an advantage, right? Of course, I am not saying that being old is a mistake, nor am I saying that it is a sin. I am not saying that the Secretary is old, but that somebody will certainly not choose him. The Secretary will surely retire. He will be able to enjoy life, and my congratulations go to him.

It is certainly not worth the while to step into that muddy pool of water called politics these days. Do you get my point, Secretary? The Secretary will soon be able to embrace the azure sky and the vast oceans. But in the meantime, there is still a year or so left in his term of office. I hope that during his term of office as the Secretary for Education, he can expeditiously rectify all those problems that need to be rectified, instead of handing over the trouble to the next Secretary for Education. This is the humblest request we put forward to him. We hope that during his term of office as the Secretary for Education, he can place all problems on his agenda for tackling, including DSS schools, class reduction, the fine-tuning of the medium of instruction and countless others. I hope that in the coming one year or so, he will not be influenced by any "sunset mentality", and that he will not see the present Government only as a caretaker government. He must not do so because he has after all been working in the Government for many years. Basically, no existing Directors of Bureaux are more experienced than he is. Therefore, I hope that the Secretary can grasp the opportunity presented by this incident. If he detects any deficiencies in the present education policies, he should make use of the remaining one year or so to introduce drastic and genuine reforms. That way, he will do good to the masses. Thank you, President.

MR ABRAHAM SHEK: Mr Secretary, whilst there are strong grounds for the Administration and the schools under the Direct Subsidy Scheme (DSS) to improve the DSS system, I support you in your stance and beliefs in the DSS system about monitoring DSS schools without the need to micro-manage them. This is very important. The whole DSS system would crumble if there is direct intervention from the Government. The DSS system cannot provide solutions, as many of my colleagues think it could, to our society ills of poverty gap and inequalities.

The education system as a whole, with its varied forms of different types of schools, is to carry out one simple task of educating our children and imparting to them the necessary knowledge, cherished values and traditions of our society. Secretary, just forget about politics and follow your heart in delivering an education system for the greater benefit of the generations of today and tomorrow. I support you in your statement that you are not there to micro-manage the DSS system. You are there to monitor the system and do it well.

As a member of the Public Accounts Committee (the Committee), I wish to comment on the Committee's Report. First, the contributions made by members of the Committee, including myself, deserve recognition. We spent much time in our work under the leadership of Philip. The Director of Audit who brought to light the Administration's incompetence in overseeing the DSS and DSS schools should also be given due credit. And of course, the support of the Legislative Council Secretariat in facilitating the work of the Committee cannot be stressed too much. Whilst praising the Director of Audit's Report for its investigation, I must say the Report is very restrictive and must not be seen as a criticism of the DSS or DSS schools. They have served the public well. They have served Hong Kong well.

The Secretary for Education's remark on the Committee's Report on the DSS was positive, saying that the Education Bureau would study the Report in detail and follow up its recommendations to maintain the continuous improvement of the DSS; likewise, the same should be done for other schools. I hope that the Secretary's comment was not merely a political gesture which I know it was not, and it will not be, to downplay the matter (as other departments or bureaux are doing); and that he would take heed of all the recommendations the Committee had offered and seriously listen to the views of all DSS schools,

particularly those that have yet to sign the Service Agreement with the school sponsoring body (SSB).

The DSS was introduced in the 1991-1992 school year, with the aim of providing diversity in the school system by nurturing the growth of a strong private school sector to provide more choices, not only to the parents but also the pupils. During the course of the Committee's probing, the Government's role as an overseer was found to be lax and inadequate in monitoring the financial status of DSS schools (though it should be a thing of the past and we would be looking towards better improvement), the use of government and non-government funds, the admission and school fees policies, and the fee remission/scholarship scheme. Late, but not too late, the Secretary for Education announced soon after the release of the Committee's Report that, starting from the 2009-2010 financial year, DSS schools would have to provide details of properties purchased; incomes and expenditures of private classes and trading operations; sources of other reserves with a breakdown by government and non-government funds; repair and maintenance expenses; and detailed computations of the fee remission/scholarship scheme and so forth, when they submit their annual audited accounts. Hopefully, these measures will rectify the long-standing problems of the DSS.

President, the incompetence of the Education Bureau must be highlighted here, for the success or failure of these remedies hinges on the Education Bureau. In fact, the Education Bureau has a set of guidelines regarding the administration and governance of DSS schools, and when it comes to dealing with non-compliance, it has many cards to play against violators, depending on the degree of irregularity. These include adopting administrative measures such as issuing advisory or warning letters, and appointing school managers to the school boards. It also has punitive powers, such as withdrawing the subsidy payable to the school with a resultant loss of DSS status, and even terminating the School Management Committee or the Service Agreement. Notwithstanding these powers, the Education Bureau did not take sufficient or robust action, despite being aware of the irregularities in some DSS schools.

I think the problem is that the schools have been operating fairly well and one must find the balance between monitoring them severely and letting the schools progress as they have been doing so from an educational viewpoint. I

think that is something very difficult to understand, and this I think will give credit to the Education Bureau.

I would like to highlight the point about the Education Bureau's handling of the delay in signing the Service Agreement. The refusal of the schools to sign the Service Agreement, this being such an important agreement, must not be taken lightly. It must not only be viewed as a matter of non-compliance as noted in the Director of Audit's Report; rather, the Administration should take proactive steps to understand the reasons why the schools have refused to sign such an important document. The standard Service Agreement of the DSS fails to take into consideration the individual schools' philosophy, their operating ideals and character, ownership of assets as well as commitments to parents and students. If some of the schools sign this standard agreement, their very existence could be challenged both morally and legally. I urge the Secretary to take a proactive view in establishing a meaningful dialogue with these schools and find an amicable solution rather than engaging in the present dead-end situation out of administrative obstinacy and bureaucracy. Secretary, please try to understand why these schools cannot sign the Service Agreement and find a way out. They must have some good reasons for not signing the Service Agreement.

If bureaucratic attitude was the cause of the Education Bureau's weak governance, it was insufficient deployment of manpower that consolidated the problem. Understandably, there has been a reduction in civil service staff and everybody must work overtime. In 2010, out of the 153 staff in the Regional Education Offices (REO) that offer support for school administration and deployment, only 5.4 staff were allocated for supporting DSS schools. In other words, one REO staff had to support 13 DSS schools. That was quite a task. In contrast, one REO staff only had to support six subsidized schools. Such a huge cleavage demonstrates the low level of importance the Government has attached to the DSS, which is not a good thing. Understandably, as I said earlier, a lot of DSS schools are very well-established academically and that is possibly the only reason that I can think of.

President, in 2009-2010, the subsidy payment to the 72 DSS schools amounted to \$2.4 billion. This was a lot of money. But this money, regardless of whether it was allocated to DSS schools, had to be spent because it was the entitlement of the school children. I think it worked out that every child was

entitled to some \$30,000. Therefore, the money was not given to DSS schools, but to every entitled student. According to the Government's estimates, the amount of subsidy will increase to over \$2.9 billion in 2011-2012. Since DSS schools receive a government subsidy (like the English School Foundation but not in exactly the same way) for each eligible student enrolled, the Government is duty-bound to monitor the effective use of public money. Likewise, as Honourable colleagues indicated earlier, the public should have the right to know the criteria and justification for various practices in DSS schools, including the appropriate levels of their school fees (but this does not mean the right to interfere with the school fees as Mr CHEUNG Man-kwong said earlier), the provision of DSS sponsorships and scholarships, the admission criteria of DSS schools, and so on. The information is, in fact, key to allowing parents to identify and select the DSS schools that are most suitable for their children. Transparency and consistency are essential. Without them, the policy objectives of DSS schools would be undermined.

Obviously, DSS schools definitely have a part to play in facilitating the DSS system. While the Committee's Report focuses on the role of the Administration, it is clear that the DSS cannot be effective without the support of DSS schools. And they have done a great job. The Committee's Report also identified problems relating to, among other things, communication between DSS schools and the Education Bureau, as seen in the issue of Service Agreement with the SSB. The recently established Working Group on the DSS, which is chaired by the Permanent Secretary for Education, should be able to resolve this problem. The Working Group aims to enhance the transparency of the management of DSS schools, and to establish an internal control mechanism in DSS schools, which will require the support of the schools themselves in order to be successful.

Last but not least, I am concerned about the rights of underprivileged children to be educated in DSS schools. I share the Committee's view that students from the grassroots should enjoy equal opportunities in enrolling at DSS schools. To this end, besides requiring DSS schools to strictly adhere to the policy of utilization of the fee remission/scholarship schemes, the Government must also enhance publicity concerning these schemes, and provide school fee allowances to needy students as necessary.

Looking ahead, I view the Committee's Report not as an end in itself, but as an important tool in the development of the DSS by the Government. To

reflect the objectives of the DSS, two-way collaboration between the Government and DSS schools is imperative. Without that, all remedies would be "toothless" and the DSS will be doomed, rest-assured.

I would also like to caution Members of this Council that whilst we have performed our duty in the context of the Committee's work in scrutinizing the Director of Audit's Report and its recommendations, we should not and could not intervene in the DSS system or the schools. Please do not let politics enter our schools. We have enough politics already, and our students should be spared. The DSS schools have served Hong Kong and the public well and they have produced good results for our children. Thank you.

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

MR PAUL CHAN (in Cantonese): Deputy President, first of all, I have to declare that my daughter is studying in an international school. I am a member of the Council of Caritas-Hong Kong and was the former Chairman of Friends of Caritas. Caritas operates schools, including Direct Subsidy Scheme (DSS) schools.

Deputy President, regarding the points put forward by Mr WONG Yuk-man just now, as the Deputy Chairman of the Public Accounts Committee (PAC), I would like to take this opportunity to respond to them. The PAC Report, particularly the part of the conclusions, has been the result of the deliberations of our colleagues in the PAC. All of us know that the PAC comprises Members across different political parties. As a matter of fact, with respect to the conclusions and wordings of this Report, a consensus was reached among members of the PAC after careful and deliberative discussions. We were not insistent on our own views or refused to give in to others' stand; otherwise, the Report would have set out different views. In drawing the conclusions of the Report, we considered the gravity of the problems of DSS schools highlighted by the Director of Audit's Report this time around, taking reference from the experience of how we tackled other issues set out in the past Director of Audit's Reports before making this judgment. We absolutely did not let anyone off the hook. Meanwhile, we cautioned ourselves not to be emotional, or to be led by the nose by the media. As a matter of fact, we think that the criticisms directed against the Education Bureau in this Report have been very severe.

Deputy President, today, I will mainly talk about three aspects of this issue. First, I will give some sincere advice to DSS schools. Second, I will talk about the long-term impacts of DSS schools becoming exclusive to the privileged few on children from the grass-roots background and society of Hong Kong. Third, I think the officials of the Education Bureau should carry out some reforms in their culture of handling matters.

First, I would like to give some comments and sincere advice to DSS schools. As the Deputy Chairman of the PAC, I have handled several Director of Audit's Reports over the past two years or so. Public organizations have been involved in each of the Reports. In the light of these experiences, I have several comments which I wish to put forward. But before I do so, I also wish to point out that this Director of Audit's Report has targeted at the Education Bureau's administration of DSS schools and it has not touched on the teaching quality of DSS schools. During the discussions of the PAC, we also acknowledged the policy of DSS schools as well as the contribution of DSS schools to society of Hong Kong. We should not completely deny their contribution just because of some cases of blunders.

What is my sincere advice? Given that DSS schools receive subsidies from the Government, they are using public money. Once public money is involved, irrespective of whether it is an organization or a school, it must have a certain sense of corporate governance. Since a school is a non-profit-making organization, some people may feel puzzled as to why it should have a sense of corporate governance. As a matter of fact, come to think of it, there is also a set of corporate governance model for public organizations. Sometimes, the school authorities, the teachers or even the principals may think that what they are doing is for the interests of the school and the students. As they do not seek any interests and benefits for themselves, they believe as long as they act in accordance with conscience, there will be nothing wrong. However, the reality may not be like that. This is because since public money is involved, transparency is required, and the procedure is required to be appropriate, open, fair and just.

Specifically, if an appropriate and transparent procedure is required, the school concerned should put in place suitable rules and regulations. For instance, with respect to staff recruitment, an open recruitment procedure must be

adopted, so that people will know that the entire recruitment procedure is conducted in an open, fair, and just manner, with the absence of any transfer of benefits in private. We can also take procurement as an example. It must be noted that at what time tenders should be invited. Even if public tendering is not required, quotations from three suppliers must be sought. In the specific procedure of inviting tenders and asking for quotations, fairness and justness must be ensured to avoid transfer of benefits in private or any ambiguities. Regarding rules and regulations, in the case of accepting donations, schools should consider whether it is appropriate to accept some donations. As specified in the guidelines, why should donations from suppliers not to be accepted? This is because accepting donations from suppliers may give a wrong impression that there are exchanges of interests. Thus, irrespective of which organization, it should carefully consider adopting a transparent and appropriate procedure in handling public money.

Second, I would like to mention the standard of conduct, which includes avoiding conflicts of interests and making declarations of interests; and in the event of conflicts of interests, the ways to handle the case. For instance, if a teacher employed by the school is a relative of the principal, how should it be handled? If a supplier of the school is a relative of a member of the school management, how should it be handled? How should the dealings between the school and the school sponsoring body be handled? It is necessary to formulate codes of conduct for the aforesaid circumstances with which the management, teachers and even administrative staff of the school will be able to comply.

Apart from the two points I mentioned just now, an awareness about compliance is also required, that is, to adhere to rules and regulations. This does not only refer to the legal regulations, but also includes the service agreement signed by the school with the Education Bureau, as well as the regulations and requirements laid down by the Education Bureau. I am of the view that an awareness about compliance is, indeed, necessary.

Besides having an awareness about compliance, it is necessary to specify how to supervise the implementation and execution of the rules and regulations and the standard of conduct in the school. This also involves what kind of members are needed to comprise the school management committee, and whether it is necessary to set up some special committees in the school community, such

as an audit committee and compliance committee to specifically handle these matters.

Fifth, I would like to talk about the participation of stakeholders. It will be most obvious if we take a look at the composition of the school management committee. This is why in the school management committee, apart from representatives of the school sponsoring body and the management such as the principal, there should also be representatives from teachers, alumni and the community. This enables members of the public to take part in the supervision, and stakeholders of the school to have the opportunity to participate in the formulation of some school policies. In the process, the school can introduce some professionals such as lawyers, accountants or company secretaries into the school management committee as appropriate. This will greatly help the school enhance its work in those areas I mentioned just now.

Deputy President, now I would like to talk about the second aspect which is the impacts of DSS schools becoming exclusive to the privileged few on children from the grass-roots background and society of Hong Kong. Of course, the Administration has earlier explained that, first, not all DSS schools are charging expensive school fees; and second, there are quality schools other than DSS schools. Excellent teams of teachers can be found in government schools and subsidized schools.

However, I must point out that at present the number of DSS schools has been on the rise. An increasing number of subsidized schools have converted to DSS schools. Meanwhile, subsidized schools which have not converted to DSS schools are experiencing a reduction in student intake due to a shrinking population. In comparison, the number of common schools with high quality available for the enrolment of students from the grass-roots families is dwindling. This has indeed reduced the chance of students from the grass-roots background to receive quality education, thus affecting social mobility.

Therefore, although many colleagues have repeatedly pointed out just now, I have to reiterate that it is very important for DSS schools to set aside 10% of the school fee income for the fee remission/scholarship scheme. This amount of money will not only be used for fee remission/scholarship purpose. The

education system nowadays is very different from the one several decades ago when we were young. Back then, most of us were relatively poor. Everyone focused his effort in studying and securing employment after finishing school. Apart from the school results, our lives were not much different. Nowadays, however, the focus is on holistic education. Besides the school results, children are required to learn various skills and broaden their exposure. Thus, the support provided for children studying in DSS schools should not be confined to school fees only; instead, it should include participation in extracurricular activities and exchange programmes, as well as assistance in other forms of learning. I hope that the Education Bureau will not only enforce this regulation, but will also ensure that all DSS schools understand that the 10% of the school fee income set aside does not simply serve as fee remissions/scholarships, but also subsidies for students to take part in relevant activities, particularly for children from the grass-roots background who lack financial means.

Deputy President, the third aspect I wish to talk about is the bureaucratic attitude and the mindset of following routine adopted by the Education Bureau officials, as revealed by the Director of Audit's Report. This kind of culture of handling matters should be changed. About two years ago, problems were found in Pegasus Philip Wong Kin Hang Christian Primary School, revealing the possibility of some messy situation in terms of accounts and management of DSS schools. Unfortunately, the Education Bureau did not draw inference from the case to conduct a comprehensive inspection back then. This is only one of the examples.

Why do I consider the approach adopted by the officials of the Education Bureau in handling matters as bureaucratic and following routine? It is also stated in the Director of Audit's Report that the contents of the annual audited accounts, that is, the auditors' reports, submitted by 18 schools to the Education Bureau did not comply with the requirements of the Education Bureau. But the officials of the Education Bureau did not take any follow-up actions upon receipt of the reports; instead, they only kept the reports on file. Why did they not pursue with the accountants concerned about the reasons for non-compliance in the relevant reports? With respect to the contents of the report, the Administration particularly requires the accountant to verify whether the relevant school has used the subsidies provided by the Government in accordance with the

rules promulgated by the Education Bureau. Why did the Education Bureau accept the reports even in the absence of such a sentence?

I will cite another example. Some schools did not set aside as much as 10% of their school fee incomes for the fee remission/scholarship scheme. When we gathered evidence, we learnt that the Education Bureau very often had not reminded the schools concerned about this. Even if they had done so, when there were still shortfalls, the follow-up actions taken by the Education Bureau were inadequate. After the PAC Report was released, I went to visit some DSS schools. I learnt from some schools that they could not exhaust the fund for the fee remission/scholarship scheme. I then brought this up with the Education Bureau. The officials of the Education Bureau told me that this amount of money was not necessarily used for fee remissions/scholarships for students, and that the money could be used for other activities, as long as they were useful to the students. This is a relatively positive response.

However, some officials did not care. They merely told the school concerned that they had not exhausted the amount and did not take any follow-up actions. Besides, they did not tell the school authorities that the amount of money could be used for other student activities apart from the fee remission/scholarship scheme.

It is also stated in the Director of Audit's Report that there was a case in which teachers were sent by a school to Shanghai for an exchange programme but the expenses were not allowed to be claimed from the government subsidies. Why was that so? It was because the school had not put in place a policy in this regard. If the school did so, the expenses could then be claimed. In my opinion, from the perspectives of school operation and school supervision, the Education Bureau should not just negate these expenses. We expect the officials to explain the relevant policy intention to schools to facilitate the school authorities to make appropriate adjustments to really put public money into proper use in practice.

Deputy President, I so submit.

MR ALAN LEONG (in Cantonese): Deputy President, first of all, the Civic Party would like to thank the Director of Audit and the Public Accounts Committee (PAC) of this Council for revealing to the people of Hong Kong the flaw-ridden situation of the mechanism of the Direct Subsidy Scheme (DSS). I have been sitting here, listening to the speeches of many colleagues, including the views and words of advice, as well as the systematic guidance delivered in all earnestness by Mr Paul CHAN, the Deputy Chairman of PAC just now. It has given me a lot of food for thought when I sit opposite the officials of the executive authorities who are not only lacking the ability to govern, but their will to govern is very weak too. When their credibility has been repeatedly questioned, will these efforts of systematic guidance be all in vain?

Deputy President, there is no need for us to turn to the future. Let us just take a look at the past week. First of all, Secretary John TSANG made a 180-degree sharp turn. Until now, he has not come to the Council to give an account of the Budget which has been basically rewritten already. Then we could see that LAU Siu-kai, Head of the Central Policy Unit, mentioned "breaking point" the day before yesterday. However, probably someone asked him whether this was alarmist talk, and told him he could not talk like that; he then said he had not spoken those words. Yesterday, we saw a television station — not only one television station — comparing what he said yesterday and the day before yesterday, illustrating he was bankrupt in terms of credibility.

Today, we saw a full-page advertisement posted by the King's College Old Boys' Association on newspapers, demanding Secretary Michael SUEN, who is sitting opposite me, to step down. The reason is that at the meeting of the King's College School Management Committee on 24 February this year, in the capacity of the chairman, the official from the Education Bureau suddenly told the Committee there was no need to cast votes, because the relevant decision was not allowed to be put to vote. In addition, the Education Bureau decided that King's College would join the class reduction programme. Then the meeting was hastily adjourned. In this way, voluntary class reduction in King's College turned into ordered class reduction. According to this advertisement, on the following day — 25 February, when Mr SUEN was asked by the reporters whether class reduction in King's College had violated the original intent of voluntary class reduction, Mr SUEN replied that of course the College had opted for voluntary class reduction. He actually described ordered class reduction as voluntary class reduction, which is contrary to facts.

Just as some colleagues urged earlier, since Mr Michael SUEN is here today, he can use the Council as a platform if he wishes to respond to today's advertisement. I think he absolutely should do that.

However, if the official we are facing is an official who not only lacks the ability to govern, but his will to govern is very weak, and even his credibility is questionable, I really feel saddened. Now we are still conveying many of our views to him. But after all, is it useful to do so?

However, as Members of the Legislative Council, we do have our obligation and responsibility to the public of Hong Kong. Thus, we will still put forward our views.

Deputy President, the HKSAR Government has incessantly said that it is imperative for Hong Kong to enhance its competitiveness. Education is also very important, and the government accounts have also indicated that the investment made in education has taken up the largest share of expenses. Recently I have learnt that the Treasury is "flooded". On one hand, we could see the Financial Secretary talk about the "flooded" Treasury — the surplus of the Government had reached \$71.3 billion. On the other hand, in the same news time slot, we found Secretary SUEN saying that the number of class reduction had exceeded the estimate. This is very strange. The entire logic is beyond comprehension.

Let me come back to the Director of Audit's Report. Among the 72 DSS schools, 71 of them were found having messy accounts. This is really something difficult to achieve, isn't it? If the investigation results in the Director of Audit's Report were released at a later date, irregularities would have been found in all the 72 schools. This is because the remaining school was established less than a year, thus, the school did not have time to make the accounts messy.

Deputy President, DSS schools are under universal condemnation. Cases of non-compliance found among schools are varied. The more serious cases include misappropriation of school expenses for speculation in stocks and purchase of properties; and failure to set aside the required 10% of the school fee income for the purpose of running a fee remission/scholarship scheme. The less serious cases include using public money for the construction of kennels and

some technical breaches. The Director of Audit's Report pointed out that when the DSS was first introduced, the Education Bureau adopted a more lenient and flexible approach so as to encourage more schools to join the DSS. However, the Bureau sized up the situation inaccurately, misperceiving that the discrepancies among schools could be rationalized within one or two years, and that a consensus could be reached and agreements could be signed with school sponsoring bodies.

Can the Bureau adopt a "hands-off" attitude towards schools so that the situation was practically free from regulation over the past years? This was also the question revealed by the Director of Audit's Report. Initially the Administration assumed that problems could be rationalized within one or two years during which a consensus could be reached. However, 10 years on, the problem has remained unresolved. Many colleagues mentioned one of the conclusions of PAC — Secretary SUEN said he had devised a mechanism, but he was "toothless". It is all too natural for many colleagues of the Council to express surprise at this. The scheme was drawn up by the Government and so were the regulations, but in the end, the Government said that it was "toothless" to require the participating schools to comply with the regulations. Just as I criticized at the beginning of my speech, this Government does not only lack the ability to govern, but its will to govern is also weak. Are these not hard facts of proof?

Deputy President, DSS schools are required to implement a fee remission/scholarship scheme so that needy students will not be denied the chance of receiving good education just because they lack the financial means. This is a very important principle as well as a very important policy. The Civic Party has all along attached importance of a good basic education to the development of Hong Kong. Many colleagues of the Council who spoke before me have clearly conveyed the message that the system of a good basic education will be able to help needy students get rid of poverty by means of knowledge, which may result in their shifting of residence from Wong Tai Sin to the Peak. This is the requisite condition of vertical mobility in society.

Moreover, it will alleviate the burden of parents if the Government is able to do a good job on basic education. We have often said that the Government should do something for the middle class. One of the things that the Government is able to do is to alleviate the burden on the shoulders of these

taxpayers. If these people find that enrolling their children in subsidized schools will not be able to fulfil their aspiration of receiving quality education, they may have to bear the pain to pay an annual school fee of \$50,000 or so to enrol their children in DSS schools, or even send them to study overseas. Thus, if our SAR Government cannot provide a good basic education, it will create a very heavy burden for many parents. That is why we attach much importance to the provision of a good basic education.

However, the Director of Audit's Report revealed to us that 22 DSS schools had not set aside the required amount or the school fee income for the fee remission/scholarship scheme. Even though some schools did set aside the amount, not every one of them set out the details in their prospectuses or websites. Moreover, the utilization rate of the fee remission/scholarship scheme of 14 DSS schools was lower than 50%. This was the situation revealed by the Director of Audit's Report. Of course, not every parent will scrutinize every detail like the Director of Audit does, or go to the Education Bureau or the DSS schools to look for the relevant documents. Irrespective of how perfect the design of a scheme is, if the anticipated recipients do not even know about its availability, or do not know how to apply, they will not be benefited. Thus, the outward flow of information will play a key role to the success of the scheme.

The Civic Party endorses the recommendations of the PAC Report that the Bureau should conduct a comprehensive review to explore effective measures to ensure that students from grass-roots families will have a fair chance of studying in DSS schools, such as providing sufficient financial subsidy to needy students for meeting the necessary expenses of studying in such schools, and consult the Panel on Education in the review. On this premise, I would also like to remind the Government about one thing. May be I should quote from an article written by Mr Joseph WONG, the former Secretary for Education and Manpower. In the article, he reiterated the objective of the Government in implementing the DSS back then as follows (I quote): "The objective of the Government in implementing the DSS was to provide schools with more freedom with regard to curriculum and management model, in accordance with which school sponsoring bodies and educators can provide quality education. The price of obtaining subsidies of public money is to ensure disadvantaged students will not be turned away. But over time, are there DSS schools and even parents who wish the background of students will be relatively identical, which means the disparity of

the family income will not be too great? This warrants in-depth consideration and study by the Government."

Deputy President, while the Civic Party endorses the recommendations of this PAC Report, we also wish that in devising a better and new monitoring mechanism, we must remember the original reason for establishing DSS schools is to provide schools with more freedom with regard to curriculum and management model. Thus, we must make every effort not to overdo things. This is also a very important point.

Deputy President, from DSS schools to subsidized schools, from kindergartens to universities, in fact, the Education Bureau is being attacked and criticized from all sides. Today, this Council notes that the Government is criticized not only by the PAC Report and the Director of Audit's Report. The area of review and reform needed to be undertaken by the Government does not cover the DSS only; it should be extended to the Bureau as well as the philosophy, means and will of governance of the entire Government. Education is very important, as it is also the software, investment and infrastructure of society. I hope that this Report will serve as a wakeup call, so that the SAR Government will have a moment's reflection on this painful experience, and will do better in education. I so submit.

MS STARRY LEE (in Cantonese): Deputy President, in the Report released in November last year, the Audit Commission uncovered many problems of the operation of Direct Subsidy Scheme (DSS) schools. After the release of the Director of Audit's Report, we could see headlines in newspapers on the following day such as "Messy accounts of Direct Subsidy Scheme schools condemned as 10 sins by the Audit Commission", "Audit Commission passed strictures on Direct Subsidy Scheme schools", "Messy accounts of Direct Subsidy Scheme schools with irregularities including buying stocks and properties and lending money for interests", "Fee increases for Direct Subsidy Scheme schools to reap huge benefits despite large reserves", and "Not regulated Direct Subsidy Scheme schools in messy accounts". Such headlines were prevalent in newspapers of the following day, virtually stamping a "black pig" on all DSS schools, leading the public to believe that all of them are non-compliant.

(THE PRESIDENT resumed the Chair)

Did the Secretary know that subsequent to the release of the Director of Audit's Report and the wide media coverage the following day, the media commenced a witch hunting in order to trace the identify of the four schools mentioned in the Director of Audit's Report? Friends from the media told me some large-scale media organizations with sufficient manpower and resources had called various DSS schools to understand the situation, in the hope of finding out which four schools were audited and subsequently revealed by the investigation report, resulting in an escalating guessing game in society. The Secretary may recall, the focus was subsequently shifted to considering whether the list of the DSS schools should be released. At that time, as members of the Public Accounts Committee (PAC), we were incessantly pursued by the media about our views on the release of the list of these DSS schools. The media told us at the time that the reason given by the Bureau was that they had an agreement with the PAC by which the list could not be released before the public hearings. That was why the list could not be made public.

Many of the PAC members sitting here may recall the subsequent process. The PAC reached a conclusion after meeting and opined that the names of the schools were not comments but facts. We were of the view that, in fact, the Bureau had absolute power to choose an appropriate time to release the list through an appropriate channel. We finally decided to send a letter to the Bureau to enquire about the list of the four schools being audited. The reply of the Bureau gave us a shock. This was because the Bureau opined that for the sake of fairness, it must not provide the list of the four schools only; instead, it chose to attach the list of 72 DSS schools in the letter. The Secretary should remember what happened after that. After some twists and turns, the media got hold of the letter, and the Bureau was then forced to release the list on that night. The press did not only publish the list of 72 DSS schools on the following day, but also reported that 71 of them had been uncovered to be non-compliant. Some DSS schools were stamped three pigs, while some were stamped two pigs or one pig. Eventually, all DSS schools were stamped black pigs by the media.

Since the release of the Director of Audit's Report, I have held many discussions with stakeholders of various DSS schools. The principals and management of many DSS schools had strong views on the arrangement of the release of the list. Some principals told me — Dr LAM Tai-fai is present, probably he will express his views later — they had learnt about the non-compliance of their schools through newspaper reports only. I visited the Hong Kong Chinese Christian Churches Union Logos Academy with another Member of the Legislative Council. I can still remember a student told me he was very concerned about the situation of the school in which he was studying. He found that the situation turned out to be not too bad. However, there were three areas of non-compliance. From my experience of long-term participation in the work of auditing, I have found this way of doing thing unreasonable. This is because the audited unit must not be denied a chance to respond before the list of the audited units is released. This makes me feel that the act is tantamount to conducting a trial prior to informing the person who is being tried. As political figures, we should understand this kind of situation. This is particularly so with being tried by the media. Even if these schools later call the Education Bureau and ask for the reason of being reprimanded; and subsequent to explanation, find that there has actually not been non-compliance, justice will not be done to these schools. The impression of DSS schools being non-complaint will remain with the public for a long time.

Thus, I would like to take this opportunity of the debate to bring up this incident again, and further discuss it with the Secretary. I hope that the Bureau or the Government will learn a lesson from this incident, and in-depth and comprehensive consideration will be given to the arrangement of the announcement of the list of various stakeholders. As a matter of fact, the Secretary is more experienced than me. Having worked in the Government for so many years, he is used to witnessing "grand scenes". He could not possibly overlook to keep the list of 72 schools confidential in the reply to the PAC. There were times when I suspected that the Secretary might have made use of the PAC to release this list; or some schools might have caused the Secretary a lot of headaches, or they had repeatedly not heeded the advice of the Bureau, so the Secretary took the opportunity of the Director of Audit's Report this time around to attract wide media coverage, with a view to forcing these schools to obey the instructions of the Education Bureau. In fact, I had such thoughts before, as I believed it was impossible for the Secretary, with his years of experience, not to

have anticipated the consequences if the PAC and the media had got hold of the list and the letter. The Secretary must have also realized that, apart from the four schools being audited, as far as I know, the other 68 schools had not been informed, and thus, did not have any opportunities to defend themselves. This was really extremely unfair to the stakeholders of these schools and other schools. Anyway, these are just speculations after all. I hope that the Bureau will learn a lesson. When a list is announced, particularly when various stakeholders are involved, the feelings of other stakeholders will be taken into account.

My strongest feeling and greatest disappointment after the long process of public hearings and the participation in the compilation of the Report has been my observation of an issue — if the Secretary disagrees with my observation, he can tell me later — at the many public hearings, the replies given to us by the Secretary all along indicated that he could not see the fact that the chance of children from grass-roots families enrolling in elite DSS schools had become increasingly small. I also remember he said that since there were so many quality schools in Hong Kong, children were not necessarily to be enrolled in DSS schools; and that the relatively high school fees of some DSS schools did not pose a serious problem.

Secretary, I have given these remarks of yours a long thought. I have also discussed with some friends in the education sector. Some of them have given me the same answers. Pondering over them again and again, I have asked whether this is actually what we really wish to see. However, after much consideration, I still wish to tell the Secretary that it is true that children are not necessarily to be enrolled in DSS schools, but we also understand that every parent wishes to see their children being admitted to elite schools or schools of their choice. Unfortunately, in reality, many elite schools have converted to DSS schools. Although children are not necessarily to be enrolled in DSS schools, the parents have strong aspiration for them to be admitted to elite schools. If it is increasingly difficult, and even there is no chance for children from grass-roots families to be admitted to these elite DSS schools, the opportunity of upward mobility for children from grass-roots families will indeed be thwarted. This is because insofar as the parents and children are concerned, education is of paramount importance.

We have also heard many stories of the grass-roots parents. Even though they are not educated themselves, they wish to send their children to the best schools. Middle-class parents have always told me that they will not allow the fate of their children to be determined by ballot. They are of the view that if they can afford financially, they will certainly look for various schools from which their children will be able to choose. Thus, exactly because of this, we really do not wish to see that children from grass-roots families find it more difficult to be admitted to DSS schools than children from other families due to financial means. As education is the most important and the most vital instrument for upward mobility of children, I am of the view that the Secretary for Education should attach more importance to this issue.

I have already spent nine minutes so far. I have to continue to talk about other relevant points. I have mentioned the focus of discussion of the community is centred on why we do not wish to see DSS schools — to be fair — some DSS schools although the school fees charged by many DSS schools are in fact not very high, and as a matter of fact, there are children from the grass-roots and middle-class families who manage to be enrolled in these schools, but why do more and more people believe that some DSS schools have become exclusive to the privileged few? As a matter of fact, I can think of three reasons. First, some DSS schools do not attach importance to bursaries. Second, the level of school fees of some DSS schools is beyond the affordability of grass-roots families. Third, the existing subsidy mechanism has in a way encouraged schools to make incessant upward adjustment of school fees.

I will talk about the first point first, and that is, DSS schools do not attach importance to bursaries. According to the Director of Audit's Report, 22 DSS schools did not set aside the required amount of school fee income for fee remissions/scholarships. When the Director of Audit's Report was released, I was asked for interviews by a number of media and had to handle many matters, so I was very busy. At that time, I did not browse the relevant websites. When I read the relevant newspaper reports, I found that Mr Joseph WONG expressed his great concern about this incident in his column on 1 December. He said that he had browsed the website of one of the schools being audited — the Hong Kong Chinese Christian Churches Union Logos Academy. In the webpage, parents were reminded that the annual school fee was \$26,000 followed with a

brief sentence of "a school remission scheme is available in our school for the application of eligible families." I consulted many parents as well and they said that they did not quite understand the scheme, and were not sure that with their family income, whether they would be eligible for fee remissions if their children were to be admitted to DSS schools. This incident happened quite a long time ago. Recently I browsed the website of the Hong Kong Chinese Christian Churches Union Logos Academy again, and found that improvements had indeed been made in that eligibility criteria for fee remissions were clearly specified.

The second reason is related to the level of school fees. The level of school fees of some DSS schools is beyond the affordability of grass-roots families. It is often said, and the Director of Audit's Report also pointed out that in 2008-2009 and 2009-2010, the Education Bureau had approved 30 and 18 applications respectively for school fee increases. For these two years, the approved amount of school fee increases ranged from \$500 to \$17,500 and from \$100 to \$12,500 respectively. For one of the schools, the increase of school fee was from \$4,500 to \$22,000. For another school, the increase of school fee was from \$48,000 to \$60,000. The rate of increase was astonishing. We also agree that the school fee of DSS schools has been on the increase. After this coverage, the media checked the School Profile of the following year to see which of the schools would increase school fees. To be fair, as Dr LAM Tai-fai is present now, I will now quote the report in the *Hong Kong Economic Times* — after looking up the School Profile of 2010-2011, the newspaper pointed out it was indicated in the School Profile that over 20 DSS schools would increase school fees in the following year, among which Lam Tai Fai College would double the school fee of Form One to \$20,000; and the school fee of Form Three in Tak Sun Secondary School would increase 3.9 times to \$22,000. Moreover, the newspaper also mentioned that among DSS schools, St Paul's Co-educational College charged the highest school fee for Form One, which amounted to \$52,000; and the school fee of Form One of Creative Secondary School this year saw an increase of 5%, and was on a par with the school fee of St Paul's Co-educational College.

These facts have told to us that the school fees of DSS schools are really on the rise, to the extent that the school fees of certain schools of parents' choice are

beyond the affordability of grass-roots families. It has been reported in the press that the annual school fees of some of the top 10 elite DSS schools range from \$30,000 to \$50,000. I have used \$30,000 and 10 months as a basis of calculation. It turns out that the monthly school fee is \$3,000. If there are two children in the family, the basic expense will reach \$6,000. Is this a level affordable by all the grass-roots families? Secretary, I hope that you would seriously consider this.

The third reason is the existing subsidy model. With respect to the existing subsidy model, the Secretary should know very well that it is counted per head. I have also looked up the relevant information and found that there was a mechanism in the past which, in a way, did not encourage DSS schools to increase school fees. However, in 2001-2002, to encourage more schools to join the DSS, the Government introduced an improved version. In simple terms, this mechanism was abolished, so that all schools could basically be eligible for the full amount of subsidy. I very much hope that the future working group would think of ways or devise a mechanism to reduce the subsidy amount when the school fee reaches a certain level, thereby in a way encouraging DSS schools not to incessantly increase school fees.

Lastly, I wish that you would (*The buzzer sounded*) President.

DR LAM TAI-FAI (in Cantonese): President, before I speak, I have to declare that I am the Supervisor of Lam Tai Fai College, as well as the person in charge of a school sponsoring body.

President, regarding the audit incident of the Direct Subsidy Scheme (DSS) this time around, I am very dissatisfied and disappointed with the approach, procedure, practice and attitude adopted by the Audit Commission and the Education Bureau. I have found their entire work process slipshod and lack of thorough consideration. They have not adopted a targeted approach to address the issue as well. Basically they have neither taken into account the feelings of the majority of DSS schools, nor taken heed of the response and opinions of the public. They have not even estimated what the consequences would be, not to mention attached any importance to them. I would summarize my criticism in one sentence: This is a rigid and irresponsible performance.

As a matter of fact, since the work of the two departments in this regard was ineffective, incomprehensive, and without thorough consideration, an enormous furore has emerged, eliciting a strong reverberation among the public, resulting in a lot of confrontations and finger-pointing, and creating many arguments and disputes. The voices of criticisms have risen one after another. Some DSS schools which have not done anything wrong are subject to universal condemnation, leading to a lot of misunderstandings. In the face of negative impacts, there has been immense frustration among the majority of DSS schools.

After listening to the speeches of some colleagues just now, I know how things stand already. Honourable Members, as a matter of fact, all the stakeholders involved in this controversy have become losers. Harm has already been inflicted on the Education Bureau of the Government, school sponsoring bodies, teachers, principals, parents and students. Many schools are subject to unnecessary pressure and stress. Frankly speaking, this has made many enthusiastic persons who wish to devote their efforts to education in a genuine and pragmatic manner feel saddened, victimized and aggrieved.

I believe this incident has also inflicted damage on the confidence of the public in the system and governance of DSS schools, and the impacts are very negative in nature. President, please allow me to point out, as far as I understand, the objective of the audit by the Audit Commission this time around has been confined to whether the Education Bureau has carried out its duties in the DSS, and the performance of the authorities in terms of governance, administration and effectiveness. It has not targeted at the quality of education or financial reserve of the schools or individual schools. However, in the end, it has turned out that all the fingers are pointed at DSS schools, making many members of the public misunderstand that the Audit Commission is now "catching thieves" in DSS schools.

President, honestly, the controversy this time around has made many members of the public believe that the operation of DSS schools is in a muddle — many colleagues have mentioned that just now — the accounts are in a muddle, too. Some people have even described the accounts as "messy". They think that the concepts and practices of financial management in DSS schools are problematic, and schools care only about accumulating wealth, instead of helping needy students. They query the lack of transparency in the operation of DSS schools, and accuse them of being free from regulation. If these schools have

surplus in their reserves, they will easily be labelled as accumulating wealth by unfair means. If schools plan to increase school fees due to developmental needs, they will give the impression of being greedy, to the extent that many DSS schools are described as "noble schools".

As mentioned by Ms Starry LEE, the annual school fee of Lam Tai Fai College is \$10,000. It is HK\$10,000, not US dollars or Renminbi. This is a school fee for one year, and it is the lowest in the Sha Tin district. If we are lucky enough to have our fee increase application approved by the Education Bureau, so that we can adjust school fee to meet our needs, our school fee will still be the lowest in the Sha Tin district. We have never raised funds among the parents and students of our school. All the plants and the new building have been the investment of some cold cash by our school sponsoring body. There is no "noble" element whatsoever.

As the responsible person of a school sponsoring body, I am heartbroken and frustrated when I hear these criticisms and comments, which are difficult to accept. However, I will not blame them. As a matter of fact, they have been misled by some comments of the senior officials, and the Director of Audit's Report which has given a sweeping generalization about the situation. In fact, from the drafting to the announcement of the Report, with regard to the problems covered, irrespective of whether they were major or minor problems, trivial or technical matters, verification from the schools had not been sought. It was merely a one-sided analysis. We did not have any opportunities to clarify. Is that fair, just and credible? Honourable Members, do you know how to distinguish right from wrong?

The Audit Commission visited four schools. When Mr Vincent WONG of Commercial Radio wished to know more about DSS schools, he visited more than four schools. For instance, someone mentioned just now that some secondary schools had not released the information on fee remission to students. My school is one of the schools labelled doing so. However, as a matter of fact, if you access the website of my school, you will find that the school has released such information on the website every year. But they have not sought verification on this allegation with me. The Director of Audit's Report stated that alumni were not represented on the School Management Committee in our school. Our school was just established in 2004-2005. After graduated from Form Five, students have to pursue their studies or find a job. Will it do any

good to the school if a fresh graduate from Form Five is asked to be a member of the School Management Committee? It is true that we did not do that. But did the Director of Audit's Report specify the reason behind this? No, it did not do so. Instead, many comments were misleading and untrue, leading to the misconception that all DSS schools are non-compliant.

Mr Michael SUEN, the Secretary for Education, even gave us a "well-known phrase" of "toothless". How could he say that? This should not be treated as a joke. In saying so, he misled many members of the public. It scared me and my colleagues to death; and certainly scared all parents and teachers to death, making them believe that all DSS schools are free from regulation and not law-abiding; and that all school sponsoring bodies are like runaway horses, being reckless and thoughtless in school operation.

President, today, I would like to tell all colleagues of the Council, friends sitting in front of the television, as well as people who will read newspapers tomorrow — if there are such reports in newspapers — this is not true, and this is not the fact. The Education Bureau does have "tooth". It is not only a "tooth" but a "steely tooth" that can bite people to death.

With respect to the administration of DSS schools, in fact, the Education Bureau has put in place an effective mechanism to supervise and monitor us, including carrying out inspection in accordance with regulation and maintaining a balance of quality assurance. And schools have the responsibility and obligation to follow the guidelines, principles and instructions of the Education Bureau, with a view to perfecting operation as much as possible and adopting effective means to running schools.

Everyone knows, and school sponsoring bodies also know that if we do not follow these instructions or comply with regulations, the Education Bureau can absolutely issue warning letters or advisory letters to us, demanding us to rectify the irregularity within a specified period. The Education Bureau can send officials to the school to carry out investigation. We are not free from regulation at all. If we have not rectified the irregularity, the authorities can take punitive measures against us, such as reducing the subsidy payable to the school, and even withdrawing our school operation right. Some people have the misconception that no mechanism is in place to monitor us, which is inaccurate. As a matter of

fact, there is a monitoring mechanism. Of course, whether people observe the regulations is another matter.

What I am saying is that, at present, there is indeed such a mechanism. There are also guidelines. However, has the Education Bureau performed well in its role of monitoring and supervision? Has it conducted adequate monitoring and supervision? Has it effectively exercised its monitoring and supervision? Has it been too strict with some schools but too lenient with others? Has it fully served its role and function as it should have? If schools are discovered to have irregularities, how will it deal with them? Has it dealt with the irregularities? Has it really dealt with the irregularities in accordance with the law? Or has it failed to enforce the law or deal with the irregularities in accordance with the law?

The incident of Pegasus Philip Wong Kin Hang Christian Primary School has revealed these problems. The situation of non-compliance in the incident of Pegasus Philip Wong Kin Hang Christian Primary School was very obvious. How can the authorities tolerate a non-compliant school for so many years? Since the incident has been revealed, no account of the incident has been given to the public, and nobody has to be held responsible or has been subject to punitive measures. The person who has not complied with the regulations can still evade penalties without worries and nothing has ever been accounted for, so how can the public not have misconception about the operation and supervision of DSS schools?

The occurrence of an individual incident has led to the misconception that the entire mechanism is problematic; and an individual incident has led to all school sponsoring bodies enthusiastic of running schools being wrongly accused. Whose responsibility is this? This is the responsibility of those who fail to exercise effective supervision, those who fail to comply with the law, and those who fail to enforce the law.

The controversy this time around has not only brought unnecessary pressure and stress on DSS schools, as a matter of fact, it has also affected the morale and sentiments of those who work in schools. If teachers have been involved in school administration, they will feel aggrieved. Not only has their work not been recognized, they may also be queried whether they have colluded with the school sponsoring body. As for those teachers who have not been involved in school administration, they will begin to suspect or worry whether

their superiors are really free from regulation, and whether they have spent money recklessly and thoughtlessly. The situation of the principals is even more pathetic. They may be afraid of being included in sweeping generalizations which allege that principals of all DSS schools do not have to act in accordance with the regulations; they can do whatever they like; they can ignore ICAC; and they need not apply common sense to handling finance.

In fact, the Audit Commission and the Education Bureau should really give justice to compliant schools and school sponsoring bodies that adopt a genuine and pragmatic approach in running schools in due course by making clarification to members of the public, and allowing us to have opportunities to explain about the allegations made in the Report, so that the confidence of the public in the entire mechanism and all DSS schools will not be affected by individual incidents and the public will believe the DSS is desirable.

With regard to non-compliant schools, I hope that the authorities will deal with them as soon as possible. We all understand that it will be very serious if members of the public lose confidence in the DSS; and if they are not supportive of DSS schools to the extent that they do not send their children to DSS schools or discourage their children from enrolling in DSS schools. This is because Hong Kong is a diversified society and we need diversified talents. At present, it is not enough if we rely solely on conventional grammar schools to provide talents. We need some schools that provide curriculum with unique characteristics to meet the needs of society and the market. DSS secondary schools can exactly fill this void. This also explains why so many schools wish to convert to DSS schools over the past two decades. There is really such a need in the market. Many people have the misconception that DSS schools will be able to reap more profits. This is not true. In fact, DSS secondary schools are able to provide diversified curriculum and diversified teaching models, so that students who find themselves not suitable for conventional grammar schools are offered one more option and opportunity to study, while parents are also offered one more choice.

If everyone has a negative view on DSS schools; if everyone does not believe in the mechanism, the quality of the schools and the relevant school sponsoring bodies, the development of DSS schools will be affected. Who will be the victims? It will be the general public, students and parents. Now we

must mend the fold before it is too late, in order to avoid the development of DSS schools being dealt a blow by this controversy.

In fact, I do not intend to say who should be held responsible or who should step down. The incident is not serious to the extent that a certain person has to step down. This is absolutely not necessary. It is also not a matter of who should be held responsible. I am only asking the Education Bureau to deal with non-compliant schools as soon as possible, give compliant schools justice as soon as possible, and give an account to members of the public as soon as possible so that their doubts will be eased and the negative views will be removed. I hope that they will continue to allow their children to choose studying in DSS schools.

President, I so submit.

DR PRISCILLA LEUNG (in Cantonese): President, the Audit Commission stirred up a storm of the Direct Subsidy Scheme (DSS) in Hong Kong at the end of last year, resulting in, I believe, a shocking blow to some elite schools that have all along been well sought after by parents who are willing to spend several thousand dollars on the school fee of their children. As a matter of fact, I express concern for this kind of DSS schools because St Paul's Co-educational College, the school in which I studied before, has also converted to a DSS school. Thus, the views on DSS schools I express in my speech today are absolutely out of my concern, and my wish to explore the ways to improve the operation of the DSS.

We can see that the Director of Audit's Report has revealed problems of non-compliance at various levels in a number of DSS schools. These problems are alleged to be as many as "10 sins", including reducing scholarships and bursaries, messy accounts, and excessive increase in school fees. Among these "10 sins", I am most concerned about the excessive increase in school fees, that is, the rate of school fee increase. As a matter of fact, at the time when we discussed DSS schools, I already said that I did not quite agree to the proposal concerning DSS schools. However, since this system has already been adopted, we need to see how it can give full play to its strengths, and avoid our worries back then, such as whether DSS schools would stifle the chance of children from poor family background being admitted to quality schools. This Report of the Public Accounts Committee (PAC) has used many negative expressions to

criticize the Education Bureau and DSS schools, including "disappointment", "grave dismay", and "unacceptable", "astonishment" and so on. I think this is acceptable in an investigation report as we have also participated in the investigation of various problems. I also hope that the Secretary and the Education Bureau will study the problems pointed out in the Report in a humble manner.

Now I would like to talk about the existing problems found in 99% of DSS schools, that is, the problems found in 99% of the 77 DSS schools. In my opinion, what is more important is that these are problems in the system and the structure. A Member pointed out just now that probably some DSS schools were not consulted in the process of the investigation. I cannot comment on this as I have no idea what the specific contents or process were. However, we are very concerned about the secondary education, university education and primary education in Hong Kong. I think non-compliance in DSS schools will affect the degree of freedom we wish to give DSS schools. Sometimes, the degree of freedom makes many parents feel very disappointed. Why have I said that the increase in school fees is very important? It is because I have received many complaints about DSS schools which are directed at the inability of the public to monitor the rate of school fee increase in DSS schools. For instance, our pay increase follows the market rate; or the school can rationalize the increase in school fees on the grounds that the school has plans for expanding certain new subjects, or fostering creativity among students, so more teachers have to be recruited. The amount can be calculated in this way. However, at present, the participation and the influence in this regard of many parent representatives in various DSS schools are relatively low. In some cases, their children entered the school in Form One, but a drastic school fee increase is introduced in Form Two. Should the parents continue to allow their children to stay in the school or arrange a switch to another school? When students are studying in a certain school, and coming to know many classmates, asking them to switch to another school is definitely not something desirable as their studies will also be affected.

Personally I completely cannot accept the reasons given by the Education Bureau, particularly the reason of being "toothless" given by the Secretary. I think this is totally an excuse. I am of the view that in the entire monitoring process, the Education Bureau should absolutely closely monitor the operation of

secondary schools. When we say monitor, we do not mean to monitor them in a rigid manner. This is equivalent to the three important elements in being a teacher frequently quoted by us: First, you should love your students; second, you should teach your students; third, you should set an example with your own conduct, and you show how you live. You will have to reach this level before you can integrate into the philosophy of education as a means of using one's life to influence other lives. I do not agree that the Education Bureau uses "toothless" as its reason. In fact, guidelines can be used to help those schools. Supervision can be performed in a flexible manner, enabling them to be more systematic, so that irrespective of whether they are students, teachers, or parents, they know that when they follow the regulations, major problems will not arise. Meanwhile, as a matter of fact, every sector, every decision-making echelon must have some discretionary power. If they have no discretionary power, it will be like the operation of machines, which is meaningless. Even teachers should have the choice of A, B, C, D, and E, and make their own choice. Principals and teachers should have a certain discretionary power. But having said that, we should also exercise supervision. However, in any case, discretionary power is necessary. In fact, irrespective of how schools play its role, the situation of abuse should not arise. In some cases, probably the school management does not want to be non-compliant, but given that the authorities are so lenient, it has stepped over the line, not once but twice or more, which attributes to the present phenomenon.

Thus, I think the Education Bureau absolutely should not only say it was "toothless" and then did nothing. You sent a letter to a school earlier, but it did not reply — I read the Report and knew that it was the Hong Kong Chinese Christian Churches Union Logos Academy, right? — you did not do anything as if nothing had happened. But the matter became more serious. This should not be allowed to happen. You should look into the matter and dig out the truth.

Take the example of the situation of Good Hope School. I can see that the English and Chinese versions of the regulation guideline promulgated by the Education Bureau are different. According to the Chinese version, a certain act "shall not" be carried out. But in the English version, it is "not recommended". In the case of "not recommended", obviously, if a situation arises that needs the decision-maker to exercise discretion, he will have the room for decision-making. Thus, in this regard, I think if the Education Bureau continues to adopt the

approach of not doing anything, or just as I think, the Secretary often gives people the impression that he is a kind person, but the impression of a "kind person" does not work. When you take up such a position, you must take action. A year is a year. You cannot say you will wait until next year or the year after next to make a decision. What will happen to students after two years? Those two years will be gone forever. Insofar as a teenage child is concerned, if something goes wrong with his school, he will be very sad. This is part of his growing up. Many children will cry if their school is on the list or criticized. Thus, in this regard, the matter cannot be delayed for even a day. Instead, it should be dealt with instantly. Exactly, how should the Education Bureau provide assistance so that the entire DSS has room for giving full play to its freedom — just as the DSS was expected to do when it was first approved?

I have reservations about DSS schools, mainly because students from poor families may find it difficult to be admitted to these schools. However, when a certain degree of freedom is allowed for DSS schools, I personally think this is actually the merit of the DSS. For instance, I have criticized that some schools — not necessarily DSS schools — are very good at teaching Liberal Studies in that they have their own features, but some are rather poor in teaching this subject. I think assistance should be provided in this regard. The same applies to DSS schools. Dr LAM Tai-fai mentioned his school just now. In fact, I have also listed it in my speech. For instance, if students like sports, they can have their choice. Some schools may have other features, such as providing special courses for leadership training, and students can also have their choice. I think we should enable students to give full play to their potentials. But how can we enable them to maximize their potentials, and in particular, enable them to do so under the circumstances that school fees are not on the rise without end?

At present, the choice of the parents in Hong Kong is actually very simple. I know that when I look at my colleagues. Their first choice is international schools. The second choice is DSS schools. Their third choice is government schools. I admit that, in fact, I am entitled to education allowance, by which I can send my children to study in international schools or DSS schools. It is not a problem for me. But I insist on not doing that. Both my children are studying in government schools, following the education system in Hong Kong. I understand the difficulties faced by children in Hong Kong. There is no way to

escape. They have to "beat the Eighteen Lohans". What is the reason for that? A part of my growing up process was to "beat the Eighteen Lohans". I was admitted to St Paul's Co-educational College, and studied in the College for seven years. My daily trip to and from school took me two and a half hours by ferries and buses. My classmates came from various strata. This was not only good for me, but also good for them. One of my closest friends in the school asked me once, "Priscilla LEUNG, what are dark alleys and narrow streets? I saw the term on television." He did not know what dark alleys and narrow streets were. He did not say that with malicious intent. We had classmates from different backgrounds among our peers. Our performance in our studies was very good and we enjoyed equality in our studies. Back then, there were large numbers of classmates from various backgrounds.

At present, scholarships and bursaries have, indeed, been put in place in some DSS schools, but students of excellent quality from not so well-off backgrounds still do not dare to study in these schools. This is because they will develop inferior complex after entering the schools. Some students say that sometimes teachers unintentionally remind them to apply for scholarships and bursaries, and this makes them feel inferior immediately. Thus, in this regard, is it necessary to help DSS schools as much as possible in terms of the system? If the original intention is not to develop DSS schools into "noble" schools, we should study how the administering of scholarships and bursaries will not be decided by the schools alone. For instance, there may only be seven scholarship places. If all students of the school are well-off except the seven students from poor families, sometimes these seven students will really wish to hide from others so that nobody knows their identities. This will hinder the effectiveness of mutual exchanges. As a matter of fact, students exert influence on each other. For instance, when I meet my classmates of secondary school today, they also agree that it is really good to know classmates from various backgrounds because it has greatly helped their growing up and the development of their EQ. This renders even greater help to students like us who have to "beat the Eighteen Lohans", as our resilience and perseverance have been developed in this way.

Thus, I would like to take this opportunity today to advise parents not to specially admire these schools, thinking that their children must study in "noble" schools, international schools and DSS schools. If the conditions are not that suitable, there is no need to feel as if the sky will fall in. The perseverance of

children is developed from their own process of growing up and through their own efforts. We must believe in this. Please do not think that we have to plan everything for our children. In the past, we had to "build our own kingdom" by ourselves and relied on our own to make adjustments. Nowadays, I think many children are over-protected, with everything arranged by their parents. They do not have to "beat the Eighteen Lohans". That is why there are no other ways for me. I have told my two sons, "Sorry, I do not wish you to be like this, so you have to "beat the Eighteen Lohans", and you have to tread on the same path of the other children."

So I have tried very hard to let them study in government schools. However, an uncertainty has emerged recently. I attended the Parents' Day and found many parents confused and anxious. What is the reason for that? It is because the school has to reduce classes. Even such quality schools have to reduce classes. Consequent to strong objection from alumni, the school chose not to convert to a DSS school despite the difficulties it had to go through. Perhaps this is because their background is similar to mine. They are happy to allow their children to have the advantage of coming into contact with classmates from all walks of life under the government system. But in the end, it has to consider converting to a DSS school due to the reduction of classes. My elder son is studying in this quality school but my younger son is not able to do so. Is the school going to convert to a DSS school? The alumni of the school feel saddened. In order not to convert to a DSS school, the school has been experiencing many difficulties in its operation, so as to allow many children to study in an equal environment, and enable those really needy students to study there. Some students are good at music, some are good at sports, some have excellent academic results, some have good family background. This is a miniature society, and I very much appreciate such a situation in a school.

Thus, when the Secretary is considering the reduction of classes, he must seriously give a thought to the actual situation, so as not to stifle the chance of some needy children and make it difficult for them to study in quality government schools. The Government should really have the wellbeing of the present generation in mind. I think the most important thing is actually nothing but a great merit of Hong Kong, which is that everyone can have an equal chance here. I wish to tell the "post-80s" and the "post-90s" that, as a matter of fact, everyone has gone through hardship to achieve something for himself. Take a look at Dr LAM Tai-fai. I believe many people have also gone through hardship to achieve

something for themselves. Going through hardship is not something bad. Do not expect everyone will give everything to you once you are out of school; or you will be fine in every aspect including clothing, food and housing. If this is the case, you may lose your imagination and creativity. Thus, it is necessary to achieve a balance in many things. I wish to tell friends in many DSS schools that since the DSS is up and running now, I will be happy to see that everyone gives a hand in improving the operation of DSS schools. At present, a blow has been dealt on their morale. We have to give them justice. They are able to give full play to their merits under different circumstances.

However, I am most concerned about school fees. The authorities must monitor the situation, and should not allow sudden and substantial fee increases of schools. First, if schools encounter difficulties and must increase school fees substantially, we will have to see what kind of a role the Government will be able to play. Second, when government schools encounter difficulties in deciding whether they should convert to DSS schools, I hope that the Government will help these government schools that have not converted to DSS schools as much as possible, so that they do not need to convert to DSS schools. In this way, other children will still be offered more choices. Thank you, President.

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

(No Member indicated a wish to speak)

SECRETARY FOR EDUCATION (in Cantonese): President, first of all, I would like to express my wholehearted gratitude to Honourable Members for their invaluable views and suggestions. In the following, I wish to make concrete responses to some recommendations raised in the Report and the views put forth by Honourable Members.

We believe that our task of top priority is to be forward-looking. It is necessary for us to make use of the expertise of professionals from different sectors and work collaboratively with the Direct Subsidy Scheme (DSS) school sector, so as to maintain continuous improvement of the DSS. I understand that both the Public Accounts Committee (PAC) and Members are very concerned

about the Education Bureau's monitoring mechanism for DSS schools, as well as the school fee remission/scholarship schemes implemented by DSS schools. As I have mentioned when I spoke for the first time, the Government will endeavour to improve the existing mechanism for monitoring DSS schools, so as to ensure that quality education can be duly provided for their students. Moreover, the implementation details of the school fee remission/scholarship schemes should be stated clearly, so that students from less well-off families will not be deprived of the chance to study at DSS schools.

Upon the release of the Audit Report, we have followed up cases of non-compliance with the Education Bureau's requirements proactively. In this regard, I would like to give a brief account on the progress of the follow-up work currently taken by the Government first.

Regarding the 72 DSS schools cited in the Audit Report for their failure in different degrees to fully comply with the Education Bureau's requirements, we have issued letters to all of them to follow up the issues concerned and give recommendations accordingly. All schools have demonstrated their co-operation by addressing, one after another, inadequacies which can be readily rectified and issues which are not fully in compliance with the requirements, such as under-provision for scholarships and bursaries and failure to disclose such information on their websites. As some issues involve legal consultation, procedural matters or further deliberation, such as the eligibility criteria for schools to apply for tax exemption or amendments of some clauses in their service agreements, both the schools and the Education Bureau need more time to handle them. Moreover, some recommendations involve enhancement of the mechanism currently adopted by the Education Bureau, such as that to approve school fee adjustment by DSS schools. We have taken follow-up actions proactively.

As for the Report and issues relating to the signing of service agreements with school sponsoring bodies (SSBs), we should point out that from 2007 onwards, it has been stipulated explicitly that all schools which are interested in joining the DSS should meet the necessary criteria upon admission. Therefore, in approving aided schools to join the DSS, the Education Bureau will state clearly that SSBs are required to enter into the SSB Service Agreements before they are formally admitted.

Regarding the three DSS schools which have yet signed the SSB Service Agreements, one of them has done so in February this year. As for the other two, due to their diverse views on a clause regarding how to deal with their assets upon the termination of the School Management Committee (SMC) Service Agreements, the Education Bureau, after taking into account their historical circumstances, agrees to refine the related clause in the SMC Service Agreements. We are now seeking advice from the Department of Justice. Pending its response, we will sign the Service Agreements with these schools as soon as practicable.

As for non-compliance with the terms of the SSB Service Agreements cited in the PAC Report, the follow-up work has largely been completed. For example, the three schools which have not incorporated their school governing bodies have done so already. Of the three school governing bodies which have yet acquired a tax exemption status, two of them have attained such status, and the Inland Revenue Department is now processing the application of the remaining one.

As cited in Part C of the PAC Report, of the 13 schools which have delays in signing the SMC/Incorporated Management Committee (IMC) Service Agreements, five of them have done so before February this year, and another one is expected to sign the Agreement shortly. As for the remaining seven schools, some of them have proposed further amendments to certain clauses in their SMC Service Agreements. In this regard, the Education Bureau is seeking advice from the Department of Justice and will follow up closely with these schools, so as to ensure that they can sign the SMC Service Agreements as soon as possible.

To ensure that newly-joined DSS schools can meet the requirement of entering into the SMC Service Agreements with the Education Bureau within the first year of operation in future, we will take improvement measures, such as issuing letters to remind schools upon their admission to the DSS that they should enter into the SMC/IMC Service Agreements with the Education Bureau within the first year of operation. We will also state in these letters that before signing such Service Agreements, the SMCs/IMCs should meet three requirements, namely registering as body corporates, acquiring the tax exemption status and submitting their school development plans to the Education Bureau for approval.

We will also review regularly with schools their progress in meeting the above three requirements.

As mentioned in the Report, eight DSS schools have yet signed tenancy agreements with the Education Bureau. Five of them have done so earlier on. The Education Bureau is now following up with the remaining three schools, with a view to entering into tenancy agreements with them shortly. In order to ensure that schools can sign tenancy agreements within a specified period of time, the Education Bureau has stepped up the enforcement of the policies concerned. For those obtaining government subsidies on school premises, their SSBs or SMCs/IMCs should sign tenancy agreements with the Government before receiving lands or school premises from it, so as to ensure that they will use the infrastructures concerned in accordance with the lease conditions stipulated in the tenancy agreements.

Regarding the PAC's concern about the fee remission/scholarship schemes cited in Part D of the Report, we should point out that one of the most important requirements for joining the DSS is to administer a fee remission/scholarship scheme. Such requirement aims at ensuring that students will not be deprived of the chance to study at DSS schools because of their inability to pay school fees. According to the Audit's findings, 22 DSS schools had under-provision for fee remission/scholarship scheme purpose in their 2008-2009 accounts. I would like to take this opportunity to make a clarification once again. Upon cross-checking with the Audit's findings in accordance with the calculation method that have all along been adopted, the Education Bureau found that out of the said 22 DSS schools, only six had under-provision. The discrepancies between the Audit's findings and that of the Education Bureau are mainly attributed to the adoption of different calculation methods. All the six schools have topped up funding to make good the shortfall already.

We understand that Members are concerned whether needy students have the chance to study at DSS schools. Therefore, we have committed to refine the existing mechanism to monitor the implementation of the fee remission/scholarship schemes by DSS schools. The new Working Group that I have mentioned will strive to explore possible measures in this regard, so as to ensure that students, including CSSA students, will not be deprived of access to DSS schools due to inadequate means.

We have all along been very cautious in handling DSS schools' applications for fee revision as cited in Part E of the Report. Our main considerations include: (1) the financial situation of the school (that is, whether it has any surplus or deficit); (2) the reasons and justifications for the fee revision; and (3) whether it has completed the due process with regard to the consultation with parents. Recognizing Members' concern about the fee revision by DSS schools, the Education Bureau has committed to review the existing fee adjustment mechanism. Regarding this point, I will provide supplementary information later.

Given that DSS schools have more available resources and flexibility as compared to ordinary schools, the Education Bureau agrees that financial management of DSS schools is our priority area for improvement. The PAC is concerned about the use of surplus funds for investment purpose by a DSS school as cited in Part F of the Report. We should emphasize that the income of DSS schools should be used to meet their daily operating expenses. However, we also agree that they should accumulate some reserves as appropriate, so as to cope with necessary expenses, such as (1) expenses relating to staff remuneration, including pay increment, provident fund, long service payment and severance payment; (2) maintenance works of school premises and above-standard facilities; and (3) special development purposes under their school plans. Apart from these major expenses, generally speaking, schools should not accumulate a huge surplus for investment purpose.

Regarding financial management of DSS schools, we plan to focus on their management structure, training and internal control, including the review of the surplus or reserve ceiling (which has also been mentioned by Members just now) and its uses, the communication mechanism with stakeholders and the role of the Education Bureau. We aim at ensuring that DSS schools can have a reasonable accumulation and prudent use of resources.

In view of the PAC's concern about the use of non-government funds to purchase three properties by a DSS school, the Education Bureau will closely monitor the progress made by the school concerned in this regard, which has transferred the three properties to the SMC to ensure that the transfer can be completed without delay. As far as I know, the school has submitted documents to the High Court for applying for a vesting order to transfer the three properties

to the SMC on 27 January 2011. Pending the granting of the vesting order, the transfer can be completed expeditiously.

Moreover, staff, being an important asset of schools, is also their foundation of success. The Education Bureau has issued guidelines and reminded DSS schools from time to time that they should formulate and implement a reasonable and fair system for personnel management. In view of the recommendations put forth by the PAC in Part K of its Report, the Education Bureau will provide more training for the staff of DSS schools to familiarize them with various requirements of the Education Bureau in human resource management, so as to help schools strengthen their internal control mechanism.

The PAC is also concerned about the trading operations conducted by some DSS schools, as well as the acceptance of donations from trading operators or suppliers by a DSS school, as stated in Part L of its Report. The Education Bureau has reminded DSS schools from time to time that they should take necessary measures to prevent malpractices. In light of the Audit's recommendations, the Education Bureau will facilitate DSS schools to strengthen their internal control mechanism for the audit issues concerned.

As a matter of fact, there is a common point among the Audit Report, the PAC Report and speeches delivered by Members just now, that is, we all wish to refine the management of DSS schools, so as to inject diversity into our school system and offer more choices for parents. I am willing to listen to your views and follow them up pragmatically. Overall speaking, I will classify improvement measures into three main categories, namely, transparency, governance and communications. The function of transparency is to prevent malpractices, achieving checks and balances as well as monitoring. Taking fee revision as an example, DSS schools are required to consult parents properly and enhance transparency before submitting their applications. They should provide parents with the relevant financial information, including the reserves accumulated, and explain to them the reasons for applying for fee increase and address their concerns. In case DSS schools have plans to carry out large-scale capital works, we will remind them explicitly that they should consider parents' affordability and consult them, and that during the consultation process, they should provide parents with sufficient information, including the objectives of the capital works, the timetable, the possible impact on school fees and the schools' financial information. As for using non-government funds for investment,

schools are not prohibited from doing so at present. However, we agree that in case schools make such investments, they should formulate strategies, procedures and measures for control in advance. At the same time, they should set up a proper control mechanism within their management framework, so as to ensure the financial soundness of such investments. Another key improvement measure is that DSS schools should maintain communication with stakeholders. Taking the administration of the fee remission scheme as an example, the key is that schools should ensure parents' understanding about the relevant information. Overall speaking, DSS schools should establish a mechanism, so as to maintain effective and good communication with different stakeholders.

As we all understand, schools are quite different from other public organizations funded by the Government, as their service targets are students. Once non-compliances are detected, we should consider cautiously the possible impact on students that may be brought about by our follow-up actions. Therefore, we cannot take the most stringent follow-up actions against such non-compliances all of a sudden. For example, there is a suggestion of withdrawing the subsidy payable to non-compliant schools with a resultant loss of their DSS status. But in doing so, students' learning will be unavoidably affected. As for whether there is a need for us to put in place other effective measures to deal with schools' non-compliances, it is a subject that deserves further consideration. The new Working Group will make use of inputs from its members from the private sector who are experienced in governance, financial management, human resources and other related areas to examine the formulation of various measures, so as to improve and enhance the smooth operation of DSS schools.

We have held briefing sessions for members of the Working Group on 1 February this year to enhance their understanding of the background of the DSS and the operation of DSS schools. We have also had informal gatherings with members of the Working Group and those of the Hong Kong DSS Schools Council, so as to enable them to exchange views directly and have a better understanding about each others' concerns and views. Members of the Working Group will visit DSS schools from this month onwards, so as to inspect their situation on-site and convene working meetings officially. The Working Group will report to me by the end of this year.

As recommended by the PAC, a dedicated high-level body should be established in the Education Bureau to oversee the administration of the DSS and

the management of DSS schools. Moreover, a mechanism should be put in place to require the staff of the Education Bureau to report, in appropriate cases, DSS schools' non-compliances and malpractices to their superiors, including the Secretary for Education. Regarding this recommendation, I would like to reiterate that I have explained in my evidence submitted earlier that there is already a standing task force, chaired by a Deputy Secretary, within the Education Bureau to oversee and review the implementation of the DSS and draw up strategies to follow up serious non-compliances by DSS schools. As for the monitoring on DSS schools, same as that on schools of other types and other areas of work, the staff of the Education Bureau have demonstrated their collaboration by focusing on their respective responsibilities. However, we agree that it is necessary for us to further enhance the mechanism for planning, co-ordination and notification within the Education Bureau. In view of this, we will improve the operation of this standing task force. Initially, I have decided that in future, an annual report summarizing the findings of the annual audited accounts submitted by DSS schools and the audit inspections should be sent to the said task force for discussion, so that the Education Bureau can have a holistic review of the financial management of DSS schools and ensure effective follow-up by schools of various improvement measures including their timely and full compliance with relevant requirements. Moreover, we will also set up a working group comprising officers from various divisions under the standing task force at present, so as to enhance the effectiveness and timeliness to tackle with their non-compliances and problems. We will also consider how to further enhance the mechanism for reporting key issues of DSS schools to the Secretary for Education and the Permanent Secretary for Education. We will also review the working procedures within the Education Bureau later.

Moreover, regarding Ms Starry LEE's request for disclosing the names of the schools concerned, I would like to explain once again why the Education Bureau, upon the release of the Audit Report in November last year, did not take the initiative to disclose their names. It is because there has been an established agreement between the PAC and the Government over the years, and the specific content is as follows: "During the period between the tabling of the report in the Legislative Council and the public hearings, any public debate on the issues to be further investigated should be avoided by both sides as far as possible, so as to ensure that the PAC can carry out public hearings smoothly and in a fair manner and that the Government should refrain from initiating any publicity to counter the Audit findings." This refers to what we should have done before the official

commencement of meetings held by the Audit Commission. To abide by the content of the agreement, we endeavour to avoid releasing any information in this regard prior to the hearings held by the PAC. As mentioned by many Members just now, we do not wish to see that schools become the target of the Audit. As we all know, the Education Bureau is indeed the target this time. Members of the PAC have advised that the decision on how and when to disclose the names of the DSS schools concerned lies with the executive authorities. I think this goes against the spirit of the agreement as understood by us. In this regard, it is necessary for the Government and Members to further discuss how to deal with information disclosure in similar incidents in future.

In our opinion, the DSS, with its uniqueness and merits, can maintain both diversity and flexibility in school management. In examining various improvement measures, the new Working Group will ensure adherence to the basic principle of monitoring currently adopted, that is, "act in accordance with the law" and "take supervisory measures as appropriate". As such, DSS schools can maintain its flexibility under a reasonable governance framework, and respond to diverse needs of their students in a responsive and proactive manner.

Lastly, I would like to thank once again Honourable Members and people from various sectors for their concerns about the DSS and DSS schools. We will continue to improve the DSS and closely monitor the operation of DSS schools, so as to ensure that they can make prudent use of resources and provide quality education in line with the school-based management spirit.

President, I do submit. Thank you.

PRESIDENT (in Cantonese): Dr Philip WONG, you may speak now.

DR PHILIP WONG (in Cantonese): President, first of all, I have to thank those Members who have just given their speeches. They have raised many valuable points on the Direct Subsidy Scheme (DSS), DSS schools and the education system of Hong Kong as a whole, all of which are worthy of self-examination and reference by the Secretary for Education, Education Bureau officials and DSS schools.

President, I have noticed that during his first speech, Secretary Michael SUEN said that the principle of "taking supervisory measures as appropriate" should not be changed. I totally agree to it. But how do we differentiate those "that ought to be supervised" from those "that ought not to be supervised"? The idea of "ought not" is a subjective judgment and it should have a very clear guideline. In response to Ms Starry LEE's comments on the disclosure of school names, the Secretary has mentioned the tripartite agreement. He is right. What he has read out is exactly the agreement. However, the spirit is that we should not debate in public prior to any verification. After much deliberation, the Public Accounts Committee (PAC) opined that the provision of school names would not necessarily arouse social debate. I also agree to what the Secretary has suggested. Maybe we should sit down and discuss it on another occasion in future.

President, like the PAC colleagues, most of the Members who have spoken have not expunged the contributions of DSS schools towards the education system of Hong Kong. I absolutely agree to this point. As an additional option for parents besides government and aided schools, DSS schools are flexible in terms of course design, recruitment of teaching staff and allocation of resources, enabling them to provide a diversified curriculum and mode of education for parents and students to choose from, thereby satisfying the study needs of different students. DSS schools have indeed made a lot of contribution.

However, "freedom" is not tantamount to "unchecked", or DSS schools do not have to abide by any regulations or guidelines. I have no intention of "tarring a bunch of people with the same brush" because DSS schools with serious non-compliance are only in a minority. But the audit conducted this time has actually uncovered that the accounts of some DSS schools were messy and the supervision of the Education Bureau was lax after public funds had been allocated. I think it is the unshirkable responsibility of the Education Bureau to supervise DSS schools. Instead of leaving DSS schools unchecked, the Education Bureau should strike a balance between delegation of power and ensuring the proper use of public funds. The Education Bureau should enhance the operational transparency and accountability mechanism for the DSS and DSS schools. For non-compliant DSS schools which are still in breach of relevant regulations despite repeated warnings, the Education Bureau should step up its follow-up action and raise the penalty while demanding improvement, so as to

protect the interests of students and parents and ensure the proper use of public funds.

I notice that some schools have complained that the guidelines issued by the Education Bureau are not clear, causing deviations in the course of execution. In this regard, the Bureau should enhance communication with the schools and clarify the guidelines as I have just suggested.

I agree that the authorities should not smother DSS schools' freedom of operation, thus leading to a reduction in their space of survival. On the other hand, DSS schools should treasure the flexibility and freedom they have been enjoying, and attach importance to the integrity in running schools and increase the transparency of school management. Besides advancing the interests of students in all their endeavours, DSS schools should take up their social responsibility to ensure the proper use of public funds.

Quite a number of Members have expressed their concern about the "noble" inclination of DSS schools. This is also what the colleagues of PAC and I have been worrying about. As I said when moving the motion, education is an essential factor enabling upward mobility of grass-roots families. It is their biggest hope for the future that their children can receive good education. However, the current situation gives us an impression that DSS schools are only serving a small group of better-off families or wealthy children. Students who cannot afford expensive school fees are deprived of the opportunity to receive quality or alternative education. In particular, in view of the declining student population, the Education Bureau has recently introduced the Voluntary Optimization of Class Structure Scheme. Consequently, even some prestigious government and subsidized schools have to cut classes, making grass-roots parents feel that their children will have fewer chances of entering their desirable schools to receive quality education.

President, I think this kind of concern is well-founded. I hope that the Education Bureau and DSS schools can understand the worries of the Members and the public, listen attentively to the voices of the community and exercise self-examination in order to ensure that grass-roots children can enjoy equal opportunity of entering their desirable schools to receive quality education. I also urge DSS schools to revise their admission policy by not refusing needy

students. They should also implement specific measures to help students who are suffering from financial hardship. For instance, given that the utilization rate of the provision set aside for fee remission, scholarships and bursaries has all along been low and surpluses have been recorded, DSS schools should consider how to make use of the surpluses to help students, such as relaxing the eligibility criteria for fee remission or subsidizing students' extra-curricular activities, and even considering school fees reduction.

President, I welcome the Education Bureau to set up a working group to conduct a comprehensive review of the DSS. I also hope that the Bureau will finish the review as soon as practicable, perform its monitoring role properly, and proactively respond to the recommendations of the PAC and Members, so that mistakes will be rectified to refine the DSS. As a result, students and Hong Kong society as a whole will be benefitted.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Philip WONG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Promoting personal financial management education.

I have accepted the recommendations of the House Committee: that is, the mover of this motion may speak, including reply, for up to 15 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr CHAN Kin-por to speak and move the motion.

PROMOTING PERSONAL FINANCIAL MANAGEMENT EDUCATION

MR CHAN KIN-POR (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

Hong Kong is a well-known international financial and shopping centre. The atmosphere of investment and consumption in society is very strong and people are facing a lot of financial management problems in their daily life, but their knowledge of financial management is very limited. Many people are strangers to personal financial management, and many even draw an equal sign between financial investment and financial management.

Personal financial management is certainly more than financial investment. Financial investment is only a part of personal financial management, and personal financial management has a broader meaning. Personal financial management means making reasonable financial plans according to a person's financial conditions. To put it more specifically, each person decides and plans his expenses in life, including those for personal spending, marriage, bringing up children, buying a property, health care, retirement, and so on, according to his personal income and expenditure and also liabilities. To meet specific financial objectives, we make use of various financial tools, such as financial management products of banks, financial investment, insurance, and so on, to maintain the value of the capital or to further accumulate it. Before making a financial

decision, we should have basic knowledge of the economy, financial products, risk management, and so on.

Experts have pointed out that financial management is a concept and at the same time, it is also the management of a person's way of living. Financial management concepts will have bearings on the financial status of a person or a family. A happy, blissful family may not be very rich but the parents are mostly good at financial management, which enables their family to live in stable conditions. With reasonable financial management, a family with a normal income will not be plunged into financial difficulties. People who are adept at financial management may even be able to accumulate more wealth.

Hong Kong people lack the concept of financial management because of the lack of personal financial management education in society in the past, and the savings-based financial management concept of traditional Chinese people can no longer keep abreast of the needs of the times when a negative real interest rate prevails in society. In the meantime, given the continued ageing of the Hong Kong population and increasing volatility of the financial market, there is indeed a need for the community to learn to manage their wealth more properly, in order to meet the needs of the future.

From the various phenomena in society we can analyse the reasons why Hong Kong is in great need of financial management education. An extremely vigorous atmosphere of investment in Hong Kong has made it easy for the public to come across a lot of information on the market. The public generally hanker after making profits in the financial market. However, most people have only limited knowledge of the market and little awareness of risk management. They like to listen to rumours in the market and more often than not, they buy stocks without knowing exactly what business these stocks are engaged in. To these people, investment is like gambling, and whenever there is turmoil in the financial market, they will suffer serious losses easily.

Besides, it is very common among Hong Kong people, especially the young people, to spend before they earn. According to the results of the credit card lending survey for the fourth quarter of 2010 published by Hong Kong Monetary Authority, as at end-December 2010, the amount of outstanding payment by card holders (or the rollover amount) was \$19.1 billion. This reflects that many Hong Kong people are not spending their money sensibly as

they are unable to make full repayment and they can settle only part of the outstanding credit card balance or even just the minimum payment on the due date. As a result, they have to pay extremely high interests for the outstanding amount.

The recent years have also seen the anomaly of post-secondary students going bankrupt. According to the statistics of the Student Financial Assistance Agency, 459 cases of bankruptcy by post-secondary students were recorded in the school year of 2008-2009. Despite improvement in the economy in the 2009-2010 school year, there were still 252 cases of bankruptcy by post-secondary students. What warrants greater concern is that in the 2009-2010 school year, there were as many as 17 000-odd default cases under the various financial assistance and loan schemes, involving an amount of more than \$280 million, which is an all-time high. It is reckoned that many of these cases are the result of defaulted payment of credit card balances.

In recent years, personal loans have become increasingly popular, and people can apply for an unsecured loan equivalent to several times of their monthly income from a lending institution within a short time. To promote their business, the lending institutions put up advertisements for image packaging to beautify lending and borrowing activities and indirectly encourage insensible consumption by the public. I believe that if the correct value of money can be instilled into the public since they are young at age to make them understand the meaning of debts, they will not easily fall into financial traps when they grow up.

Recently, a hot topic of discussion in town is young people complaining about not being able to afford buying a property. Of course, property prices are indeed too expensive now, but as young people basically do not have a chance to learn how to make plans for buying a property, it will naturally be even more difficult for them to achieve home ownership. Buying a property actually involves a lot of important financial management principles, such as how to save up for a down payment, gauging the impact of interest payment, assessing the risk of entering the property market, working out the best borrowing and repayment methods, and making plans on mortgage loan repayment *vis-à-vis* household budgeting.

Hong Kong still lags behind the European countries and the United States in terms of the knowledge of insurance among the people. In fact, insurance is an important tool of personal financial management. But regrettably, many

Hong Kong people still have misconceptions about insurance so far and so, they cannot fully utilize insurance as a tool for protection and financial management, with which they can make sound arrangements for their life. In fact, apart from the function of accruing savings, insurance also serves to provide protection in advance against the unpredictable future and shift the risks, so that the public can put their mind at ease when making major decisions in life. Meanwhile, this is also beneficial to society as a whole, for the public, when running into problems, can have the protection of insurance without having to rely on the Government.

The Organization for Economic Co-operation and Development (OECD) has, in recent years, actively promoted financial education and encouraged all countries to eliminate financial illiteracy. The OECD holds that financial education should start from schools to enable people to receive financial education as early as possible, while giving emphasis to making important life plans, such as basic savings, bonds, insurance and pension schemes. In fact, the education authorities in Hong Kong are aware of the importance of financial education, and starting from this year, personal financial management will be included in the school curriculum. For instance, the subject of Life and Society which will soon be introduced at junior secondary level and Liberal Studies at senior secondary level will include elements of personal financial management, but the proportion is actually not high and it is mostly about conceptual discussion and not practical enough. Besides, while personal financial management is taught as an independent module in the Business, Accounting and Financial Studies of the new senior secondary school curriculum and the contents are more substantial, as it is only an elective subject, not all the students will have a chance to take it.

In comparison, financial management education is developing more rapidly in foreign countries. In the United States, financial management education is very popular and some state governments have since the 1950s made financial education a compulsory subject. In recent years, the Congress has passed the Financial Literacy and Education Improvement Act and set up the Financial Literacy and Education Commission to co-ordinate the work of national financial education.

Volatility in the financial market in recent years has speeded up the introduction of financial management education in many countries or regions. The British Parliament set up a cross-party group at end-January to work for the

inclusion of financial education as a compulsory subject in schools, with the participation of as many as 120 Members of Parliament. At present, the Personal, Social, Health and Economic Education in British schools has already covered personal financial management but they think that the contents cannot sufficiently equip students for meeting the future needs. Moreover, in Taiwan, personal financial management is now taught in schools on a pilot basis. They also plan to incorporate basic financial education into the primary and secondary school curricula this year, and financial education is expected to be included in the Basic Competence Test in 2014. From the above information we can see that it is a general trend in the international community to include knowledge of personal financial management in the formal school curriculum.

A key point of the motion proposed by me today is to study making knowledge on personal financial management a formal subject in school or expand the section of personal financial management under subjects such as Liberal Studies into an independent and major module. As I said earlier on, although personal financial management education has already made a start in Hong Kong, as it takes up only a small proportion and is not practical enough, it is necessary for us to call for reforms. I think the best way is to make personal financial management a subject in primary and secondary schools to teach students the knowledge of personal financial management in stages, attaching equal importance to theories and practicality in the contents. But since the education sector is concerned that the introduction of a new subject will add to the burden on students in their learning, I think consideration can be given to expanding the contents of personal financial management under subjects in which personal financial management is currently taught, such as Liberal Students, into an independent and major module, so that schools can have ample time to impart knowledge of personal financial management to students without having to create a new subject.

Another key point of the motion is to introduce more personal financial management elements to the original scope of investor education in the Investor Education Council which will be established soon. I very much support the establishment of the Investor Education Council, especially as the Lehman Brothers incident has highlighted the importance of addressing the problem. However, the Investor Education Council will be directly under the Securities and Futures Commission and knowledge of financial management is believed to be taught from the angle of investors. As the Investor Education Council will

target the general public in its education work, I think this channel should be utilized by incorporating more comprehensive concepts of financial management, such as savings, spending, insurance, retirement protection, and so on, into the scope of education. The Investor Education Council is currently under preparation, and I believe the specific scope of education is still being worked out. If today's motion is passed, I hope the authorities can take on board these proposals.

Moreover, I think the Government can encourage parents to learn from parent-child financial management activities, so as to help their children develop proper concepts of financial management. In foreign countries, these activities are very popular and through some simple activities, children are taught the value of money. President OBAMA of the United States said in an interview in the middle of last year that he was trying hard to instill basic financial management knowledge into his two daughters, including savings account, bank interest, financial management, and so on. Although President OBAMA is occupied by a myriad of state affairs every day, he still does not forget parent-child financial management activities, and this shows the importance and meaning of these activities.

Lastly, I think the Government should encourage people of means to make preparations for their retirement life. The continued ageing of the population has been a problem bothering Hong Kong. Apart from the grass-roots people who are worried about their retirement life, many people in the middle class have the same worries too. They are worried about whether or not they will maintain the existing standard of living. Some middle-class people are good at managing their finance. They put their resources to good use and make investment according to plans to earn a reasonable return in preparation for their retirement. But I believe more people do not know much about financial management principles and their assets are also more complicated. If they rashly invest in aggressive investment portfolios, they will not be able to yield any return and worse still, they may even lose the money that they have saved up for retirement. They can perhaps consult financial consultants. But as the Investor Education Council will be established soon, I hope they can do more in this respect to teach the public to make reasonable plans and investment packages for their retirement.

Nowadays, President, globalization and the ever changing financial market have made knowledge of financial management an essential skill for city dwellers. I hope government officials can seriously listen to the views of Members today and promote personal financial management education expeditiously.

I so submit.

Mr CHAN Kin-por moved the following motion: (Translation)

"That Hong Kong is an international financial and commercial centre, the atmosphere of investment and consumption in society is very strong, and people are facing a lot of financial management problems in their daily life; yet, on the other hand, there is a lack of comprehensive financial management education in Hong Kong, and whenever there is any turmoil in the financial market, some people may not have sufficient risk management knowledge to cope with it and are thus easily plunged into financial crises or even bankruptcy; some young people may have to default or are even unable to make repayment of their credit card debts due to over-spending; as a matter of fact, if the general public have good financial management habits, it will be of immense benefits to the whole society: for example, parents who have good financial management habits can help their families and children develop healthily, thus reducing the occurrence of family problems, and if working persons of means can as early as possible make good financial preparations before retirement, they will have appropriate protection upon their retirement, thus lessening their dependence on social resources in the future; in this connection, this Council urges the Government to adopt effective measures to promote personal financial management education, so as to educate people to acquire proper financial management skills and concepts; the relevant measures should include:

- (a) to study making knowledge on comprehensive personal financial management, including investment, consumption, banking and insurance principles, etc., a formal subject in school, or expand the present section of personal financial management under subjects such as Liberal Studies into an independent and major module, so as to systematically educate students on basic financial management concepts and principles;

- (b) in respect of the Investor Education Council which will be established soon, to introduce more comprehensive personal financial management elements to the original scope of investor education, with a view to instilling proper personal financial management values into the general public;
- (c) to encourage parents to participate in parent-child financial management activities so that they can instill proper concepts on money into their children through the relevant skills;
- (d) to encourage people of means to make good financial management plans for their retirement life as early as possible; and
- (e) to organize regular publicity and educational activities to encourage young people to spend money sensibly, so as to avoid plunging into debt crises."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHAN Kin-por be passed.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first of all, I would like to thank Mr CHAN Kin-por for moving today's motion on promoting personal financial management education.

Financial management is in fact a very broad concept, which, apart from investment, also covers the balance between personal income and spending, the conservation and management of wealth, and the question as to whether or not it is possible to set a positive connection between one's goal in life and the management of wealth.

In my opinion, a proper financial management concept and a rational sense of spending ought to be instilled right from childhood, no matter through school subjects or some other channels. In order to help people build a positive concept of financial management so as to let them acquire wisdom in financial management that they will find useful all the time, it is necessary to have the

close co-operation among schools, families, professional bodies and the community. Naturally, the Government will spare no effort to carry out the promotion. Here, we share the same stand with Mr CHAN Kin-por. I am very pleased that Mr CHAN put forward this motion today for all of us to have an opportunity to exchange views on it.

To have personal financial management education properly run not only provides individuals with protection, but also has positive and favourable impacts on the stability of our entire financial industry and the strengthening of confidence in our market among international investors. The Government strongly acknowledges the importance of personal financial management education and very much agrees to encouraging people of means to make good financial management preparation and plans for their retirement life as early as possible.

Today, before listening to Members' views, I would like to take this opportunity to briefly explain to you all the current work of personal financial management education both inside and outside school curriculum as well as the work of the Investor Education Council (IEC) being planned for imminent establishment by the Securities and Futures Commission (SFC).

At present, both primary and secondary schools have curricula covering personal financial management education at different stages of learning. Various courses are planned in accordance with students' basic knowledge, development of generic skills and interests. Such courses make it possible for students to master in different ways the basic knowledge of personal financial management. Compared with one single subject, the said arrangement is more comprehensive.

At present, personal financial management education is delivered by two approaches, namely, "life skills" and "subject knowledge and application".

Regarding the "life skills" approach, generally speaking, personal financial management education at the primary school level starts with the cultivation of personal life skills by integrating concepts of personal finance with General Studies, for example, the spending and saving of pocket money, and how to make clever spending choices. At the secondary school level, there is the topic of "self-understanding" under the new senior secondary subject of Liberal Studies. Through the study of different life skills, such as the use and management of

money, the importance of young people grasping opportunities, dealing with challenges, and facing up to adversities, students may have a better command of the relevant skills, including financial management and its concepts.

Regarding the "subject knowledge and application" approach, the subject of Life and Society at junior secondary level is going to be a major subject for study. The new senior secondary Business, Accounting and Financial Studies as well as Practical Studies are selective subjects. They all systematically and gradually bring in educational topics on personal financial management so as to make students better understand personal financial management in the business world in preparation for their studying and work in the future. Furthermore, some schools have also designed various learning activities to provide personal financial management education in a bid to cultivate among the students the correct financial management attitude and help them plan properly for their careers and lives.

Beyond the school curriculum, SFC, being the financial regulator with an explicit statutory remit to pursue investor education, has been actively carrying out investor education activities, for example, disseminating educational messages through a dedicated investor education website, publishing brochures and newspaper articles, broadcasting programmes on radio and television, showing short informative videos on buses, delivering talks to different demographic groups, co-operating with different local universities to hold investor seminars or conduct credit courses in personal financial management, and organizing financial knowledge quizzes and investor story competitions.

Besides, the Mandatory Provident Fund Schemes Authority (MPFA) has been devoting significant amount of resources in providing public education on the Mandatory Provident Fund (MPF) to enhance the understanding of the MPF system and MPF investment commanded by members of the public, including Scheme members and individuals of different demographic groups so as to help them cultivate the correct investment attitude in preparation for their making appropriate plans for their retirement in the days to come.

In order to further integrate into the community, the MPFA has also organized activities such as seminars, district exhibitions and carnivals in conjunction with different sectors, including professional organizations, for example, the Institute of Financial Planners of Hong Kong. Through the sharing

of financial planners and market experts, people come to know the importance of making early financial arrangements for retirement. At the same time, members of the public are being taught how to make investment decisions for their MPF that benefit them better and exercise better risk control.

The Consumer Council's ongoing consumer education campaigns also include personal financial management. Closely co-operating with the Education Bureau, the Consumer Council is involved in the design of school curricula as well as teaching materials pertaining to areas in personal financial management education and consumer protection. There is also co-operation with other statutory or regulatory bodies, such as the MPFA and the SFC, to arrange training activities for students and teachers.

The activities conducted and the information and service provided to the people by the abovementioned organizations all contribute to the promotion of personal financial management education. However, as the education initiatives that they make are specific to their respective jurisdictions, the scopes are perhaps rather fragmented. So, the Government finds it necessary to review the existing financial management education and recommends the setting up of the IEC to holistically oversee the delivery of investor education, and teach the public the fundamental attitude and conduct of financial management, and the ways to master sufficient information for the purpose of making wiser financial management decisions. The scope will cover the entire financial service industry. Coupled with monitoring measures, this can enhance the protection for the public.

In January this year, the Government briefed the Legislative Council Panel on Financial Affairs on the consultation results and summaries in respect of the proposal of the setting up of the IEC in Hong Kong. Amendments to the Securities and Futures Ordinance will be submitted to the Legislative Council in the current Legislative Session to authorize the SFC to set up the IEC.

President, I will listen carefully to Members' speeches on today's motion, in the hope that the work of personal financial management education can be further improved.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): President, the motion proposed by Mr CHAN Kin-por today on promoting personal financial management education is very good. Before proceeding to the theme of my speech, I would like to point out through the President a financial management problem facing all people in Hong Kong who are eligible for the \$6,000 as to how to manage this sum of money. I would also like to take this opportunity to appeal to Honourable Members and government officials to take the lead to use this sum of money to help the disadvantaged. What is more, I hope people of means in society can use this sum of money to help people in greater need. Demonstrating community care and concern, I believe this is a more caring way to manage the \$6,000 to be allocated by the Government in the Budget. This is a brief appeal from me.

I think it is worthwhile for us to reflect on Mr CHAN Kin-por's proposed motion. The first point to be reflected upon concerns our financial services industry. In fact, over the past two decades, or since the beginning of the 1990s in the last century, its entire mode of operation has changed. In what area does the change in this mode of operation run counter to the proposal's put forward by Mr CHAN in relation to encouraging personal financial management — particularly parent-child education on financial management? The answer is that financial institutions nowadays encourage people to spend money in advance by way of settling credit card payment with another credit card. They have also ceased to provide relevant services to encourage people to develop a savings habit at a young age.

In the past — I am talking about the olden days when we were kids — we had the old Hong Kong and Shanghai Banking Corporation building and the "Donald Duck" offered by the Standard Chartered Bank as our piggy banks (I wonder if my memory is correct). I still remember that the "Donald Duck" was very lovely. When we were small, we dreamed of opening a bank account and receiving a "Donald Duck" piggy bank or a piggy bank resembling the old Hong Kong and Shanghai Banking Corporation building.

However, financial institutions nowadays have thrown all the notions of encouraging the people to develop a good savings and financial management habit into the trash can. Despite the lapse of decades, I still remember the publicity short film at that time. One of its lines was, "Savings can bring wealth and spending less can build a family". I can still remember this because we

could often hear such publicity slogan on the radio. However, it is a pity that all this is gone.

So, what has replaced all this? People wishing to save money but not earning a lot will be penalized after opening a bank account if the amount of their savings does not reach a certain sum or their account transactions are infrequent. This is the first point. Secondly, banking groups nowadays have gradually abolished their retail banks, especially those in remote areas or housing estates. What is more, they simply close down banks operating retail services and cease to operate business to serve these people. Thirdly, under the strong reaction of the affected residents, they replace their banks with cold automatic teller machines or cash withdrawal machines. These machines certainly do not provide savings services, not to mention accepting coins.

Furthermore, as pointed out by me at the beginning of my speech, banks will offer the public a lot of benefits to encourage them to apply for credit cards. If people have financial hardship, they may even apply for a second credit card, so that they may use one credit card to settle payment for another one. As a result, members of the public end up having a number of credit cards. This has also encouraged them to spend — they will receive many incentives from the banks when applying for credit cards — the whole pattern is like this.

Why has the savings atmosphere disappeared in society? I think members of the public have to be educated. In addition, financial institutions have lost their social responsibility as well as the social conscience of promoting the establishment of such a good habit in society. These institutions are all money-driven, fighting for investors and encouraging the people to speculate. This is why the savings atmosphere can nowhere be found.

Hence, I greatly support the third point raised in Mr CHAN Kin-por's motion. However, can parent-child financial management education alone serve the purpose? At present, we have even lost the required tools and mechanism. Even piggy banks may have disappeared. Honestly, it is now very difficult to find piggy banks, though they may still exist and be available for sale in individual cases. However, no banks will accept such savings. Neither are there any banks encouraging this sort of thing. Therefore, should the so-and-so Education Council be set up in the future, I hope the Secretary can take the lead in promotion. I also hope our bankers can demonstrate social conscience by

making fresh efforts in promoting and encouraging savings, so that a savings atmosphere can be developed in society.

This was originally a very, very good habit of Hong Kong people. However, it is a pity that it has gradually disappeared since the early 1990s in the last century. Now, it is simply like "telling old stories" when we talk about the past. I believe young people nowadays — people belonging to the post-80s or the post-90s — have no idea of what "Donald Duck" and the model of the old HSBC Bank are. I think they can be found only in the Hong Kong Museum of History.

I have originally many points to make in my speech, but actually, the seven-minute time limit will be over very soon. As time is running out, I can only appeal to the Secretary to do something solid and good for us, that is, to take practical actions to promote and encourage members of the public to develop a savings habit. Thank you, President.

DR PAN PEY-CHYOU (in Cantonese): President, as a city of great prosperity, Hong Kong is filled with material attractions. In my opinion, nothing is more important to people living here than financial management skills. With its numerous commercial activities and highly developed financial industry, Hong Kong offers a lot of dazzling investment products. Members may imagine that young people, who are imperceptibly influenced by what they constantly see and hear, should somehow have some knowledge of financial management. But is this really the case? We can tell from the relevant statistical figures that this is actually not.

In a survey conducted last year by the Public Opinion Programme of the University of Hong Kong on the habits of Hong Kong people in using credit cards, it was found that Hong Kong people possessed multiple credit cards, with each person having an average of 2.5 credit cards, and 70% of the interviewees having made monthly minimum payments. Furthermore, it was found that 20% of the interviewees had not repaid a single cent. This was the situation of the public in general. How about the situation of university students, or elites in society?

Here, I will repeat some of the figures mentioned by Mr CHAN Kin-por just now. It was revealed by the statistical figures provided by the Student

Financial Assistance Agency for the period between 2009 and 2010 that 17 300 students had defaulted, with the university student loans amounting to \$280 million. The number of bankruptcy cases involving university students during the same year, as mentioned by Mr CHAN Kin-por, was 252. These figures are indeed frightening. These university students have already declared bankrupt when they have not even set foot in society. So, what can be done?

Sometimes, I wonder why such a phenomenon could have occurred. Although Mr WONG Kwok-hing mentioned some of the reasons earlier, I would like to make a more systematic analysis. In my opinion, families, schools and society should all be held responsible. What are the responsibilities of families? Because of work or other reasons, many parents have very little time staying home and may not be able to meet their children throughout the day. Even if they meet, it may be meal time. However, during the meal, everyone may merely be watching television, and after the meal, some of them may continue to watch television while others may play computer or electronic games. Hence, there is no communication between parents and children. Furthermore, there is no way for parents to share with their children their frugal way of living and prudent way of financial management, as well as their decades of experience in life and wisdom of financial management.

Some middle-class families employ foreign domestic helpers to take care of their children. While these helpers can provide personal care for the children, can the former teach the next generation ways of financial management? This is a very big question. What is more, in order to make up for their guilty feeling for failing to accompany or caring for their children, some financially-sound parents accede to every request made by their children for material goods. Not only do they satisfy every wish expressed by their children, they will even satisfy wishes not expressed. Under such circumstances, their children simply do not understand how these things come by and the value of money. Neither do they have any idea of how to save money and make planning should they wish to buy an expensive article.

While nothing about financial management was previously taught in school, a financial management education curriculum has actually been devised with the introduction of Liberal Studies. However, I have read the content of the curriculum and found that the content is so poor that it can only enable the students to cope with some very basic matters. Given that students are going to set foot in society after acquiring such basic knowledge, how can they cope with

the wide range of financial management tools and various ways to raise loan in the face of this multifarious and dazzling world?

In society, what do young people do when they get together nowadays? They compare their models of shoes, clothes and mobile phones. If you do not have these things, you are considered to be worse and more useless than me. If I do not have these things, I have to work very hard to make money to buy them in order to enjoy pride and status. Why do young people fall into such a state? Why do they take labels, novelties and trendy goods so seriously? It is all because of advertisements.

From what we see every day in the media, whether they are newspapers, television or computer, we are frequently told to buy these things, and if we do, we will have status, self confidence and respect from others. If you do not have these things, you must buy them because they are indispensable. What I am talking about are material goods and consumer goods. The same goes with money. It does not matter even if a person has borrowed lots of credit card loans. By borrowing, they may make credit card repayments and still have money to buy a few more clothes. If you have no money for your wedding and wedding banquet, just borrow! You may even have money to go honeymooning after your wedding. If you have no money for travelling, just borrow! The only message is: Borrow, borrow, borrow!

So, under such circumstances, how can our young people cope and grasp the direction to financial management? In my opinion, the matter cannot be delayed, and we must mend the fold before it is too late by beginning with families. Although this responsibility should be taken by parents, some resources and materials should be provided by society. As for schools, I very much agree with Mr CHAN Kin-por that the curriculum should be expanded before we can help young people properly equip themselves before setting foot in society. At the social level, although we cannot stop this kind of advertisement, we can transmit correct messages of financial management through a wide range of media or information networks to enable young people to receive, apart from dazzling consumer messages, more positive, proactive and forward-looking financial management knowledge.

I so submit.

MR JAMES TO (in Cantonese): President, when I was making research and preparation for today's speech with my assistant, because of the fact that (as we all know) the Budget has recently become the talk of the town, immediately my assistant asked me to first find out if the Government has got a financial management philosophy. The reason is that a government should have some basic philosophy with regard to financial management, and it should exercise prudence in financial management. However, I said we should let it go. For the time being, I am going to put this topic aside. Today let us first talk about the personal aspect. We will talk about the Government again when the Budget comes up for debate later on.

President, for two years I was on the Investor Education Advisory Committee of the Securities and Futures Commission (SFC). I had considerable fear and trepidation then. Why? The reason is: I asked myself in retrospect if my family had taught me about investment or financial management during my childhood. Surely, I agree with what Mr CHAN Kin-por said, namely, that financial management covers an extensive scope, and investment is just part of financial management. However, looking at the time of my family, we, to be honest, really belonged to the class of proletariat. How were money matters taught? At most there was just the caution against "spending money not yet earned" or the advice urging us to keep expenditure within the limits of income as well as to exercise care with savings. However, our society is very complicated. It is more and more so. If we want to carry out education on financial management and investment with a view to giving teaching in detail, we at most can only get acquainted with matters going on around the world or in the current society. Nevertheless, the basic philosophy involved has much to do with each person's life goal, life value and life philosophy, and they differ from person to person.

If it is to be simply viewed from the perspective of society, it is, of course, best to get every person to manage finance with propriety and prudence. However, we also have to understand that when the view is taken from the perspective of a capitalist society, there will be, to be honest, a considerable drop in investment or business-launching activities, that is, risk-taking innovations, if every person exercises such propriety and prudence. If there is a person who thinks he is prepared to "take risk", and yet we keep urging him to "taste bitterness before tasting sweetness" or even to be a very careful and responsible citizen, I wonder what this is for. The reason is that he in fact also has to consider himself and to understand that he may no longer rely on the Government

in the future. However, I wonder if this is the sole value. I dare not comment on this.

Surely, if the view is taken from the perspective of the Government, it has got to be the case as far as group value is concerned as he has to avoid bringing down others as well. If possible, let there be more prudence. Do not gamble. Need to save up too. Remember to act according to one's ability, and keep expenditure within the limits of income. However, there are people who think they are here today and gone tomorrow, and even say that they are prepared to launch ventures. If they "risk" it, they will get it. If they "fail the risk," they will not get it. So, in my opinion, placing too much stress on prudence is not necessarily appropriate.

President, I understand that over the last two years since the outbreak of the Lehman Brothers incident, many so-called "unreasonably cheap" fraudulence cases have cropped up. This is due to the fact that many people, while considering investment products carefully, do not command sufficient information and knowledge. Many people criticize the Government for not doing too well in many matters now. Let me be honest. After going through the SFC — please bear in mind that I am no longer on that advisory committee — after going through all the contents thoroughly, I can frankly say that the information offered is just something very basic. Some people disagree and say that it should be in greater detail. However, let me be honest. I wonder exactly how many people would like to know it in detail.

Furthermore, the fact is that at present many outside bodies are running such courses commercially. Of course, people may say that many of these courses are somehow about psychological plays or investment know-how, and the course fees are very high. Would you consider such courses to be investment education? To be honest, I dare not repudiate them totally and say that many of the courses are fraudulent. I can only say that some of them claim to believe in charts, some claim to believe in trends, and some claim to believe in statistics. On this, I can only say that the Government can only introduce the most basic concepts. Each person's philosophy, sense of value, and the amount of time that he is prepared to put in are to have the final say. The rest depends on his needs. Here is the reason. From the perspective of investment and financial management, when people spend a lot of time to learn financial management and investment, the time so involved, that is, the so-called opportunity cost, may not

benefit every person. It is possible for one to be very hard working, but it does not matter how much you ask him to learn, the outcome is not bound to be the same.

So, what is most important and needs our most focused attention now? To be honest, many people just spend what they earn. It is futile for you to ask him to learn by starting with a very marginal or very small amount. I would like to give my final conclusion in one minute. Namely, we ought to focus on those in possession of a little wealth. The reason is that we need not say anything regarding those having a lot of wealth. How he handles things is entirely up to him. He already has private bankers looking after his wealth. I would say that they may not belong to the lower-middle class. Instead, they may belong to the middle-middle class and even the upper-middle class. They are the ones who, in my opinion, need to be educated. If it is necessary to start the education at an early stage whilst at school, I have consulted the spokesman on education of our party regarding this suggestion. However, he has much reservation about such education. Given the heavy workload already placed on teachers now, it will be, from the perspective of teachers, quite beyond their abilities if we open up another course of study at school. What I want to say is that we should narrow down the range of education to target those from the middle-middle class to the upper-middle class. In this way, the manpower, resources and plans that we will have to put in will differ greatly from the case of educating all people, something we are now talking about. This message is the sole opinion that I can offer the Secretary.

MS STARRY LEE (in Cantonese): President, Hong Kong people are always keen on making investment. Individuals from all professions, of all ages always ardently talk about gold, stocks and foreign currencies over a cup of tea. Auto passengers, pedestrians or people engaged in all sorts of activities can be heard talking about the stock market when the stock market turnover reaches a certain level, sharing the numbers of stocks that they favour. This is indicative of the fact that Hong Kong people are very keen on investing in financial products.

However, instead of saying that Hong Kong people love to invest, I would rather say that Hong Kong people love to speculate. In Hong Kong, gambling is illegal. Yet many friends would tell you that our stock market is actually a recognized big casino. Surely, if you know a little, then you may invest according to your own judgment. There are, however, many people who do not quite understand investment tools. There are many very complicated investment

tools, such as bullish and bearish securities, and warrants. Highly speculative though they are, they are much favoured by Hong Kong people.

I have data to support this observation. According to a survey conducted by the Securities and Futures Commission (SFC) between July and August 2008, 20.6% of those Hong Kong people aged 18 and above, that is, about 1 million people, had invested in at least one investment product over the preceding 12 months. However, many investors did not get to understand the relevant investment products before spending real money on their investment. Also, as many as 66.8% or two-thirds of those interviewed stated that they knew very little or nothing about at least one of the investment products. These quite tally with the observation and ideas I shared with you just now. Hong Kong people love to invest, to speculate, to deal in stocks, and to make quick money. However, they do not necessarily know how to analyse investment products.

The Lehman Brothers incident made us discuss more in this respect. My participation in the Lehman committee gave me an even stronger impact. Some friends here have also participated. When presenting their cases to us, many victims said at that time they had total trust in the banks, and were convinced by publicity leaflets to believe that the Lehman bonds were *bona fide* risk-free principal-guaranteed bonds. Alas, Hong Kong investors were so prepared to spend most of their savings on investment without first finding out what they were buying, which precisely tells us that investor education is very deficient in Hong Kong. The matter should brook no delay.

Nevertheless, what to do? How? By whom? In reality it is very hard. Take a look at the existing four major financial regulatory bodies, namely, the Monetary Authority, the SFC, the Office of the Commissioner of Insurance and the Mandatory Provident Fund Schemes Authority. Of these, only the SFC specifies the need to carry out investor education. However, before the outbreak of the Lehman Brothers incident, the SFC had already carried out investor education. If its effectiveness is to be judged on the reality and the results, we certainly find it undesirable. However, I do understand the situation. Suppose one half of our 7 million people are investors, how can they possibly educate 3 million Hong Kong people effectively? This is practically impossible.

Impossible though it is, we have to get the work of investment education or the education on personal financial management done properly because in reality

Hong Kong people love to and also have to invest, and Hong Kong has all sorts of investment products and it is also a financial hub.

President, in his original motion, Mr CHAN Kin-por urges the Government to instil comprehensive personal financial management elements into the Investor Education Council (IEC) to be set up. The Democratic Alliance for the Betterment and Progress of Hong Kong agrees with this entirely. However, I also would like to comment on the establishment of the IEC.

The papers that were presented to this Council list out three strategies, namely, publicity through the media, out-reaching education programmes, and online information. I am to say nothing on the question as to whether or not the tasks are correct or effective. I, however, have the strong worry that the IEC, once established, will ultimately go back to the investor initiatives carried out by the SFC. I would like to challenge you people. Could you set an index of effectiveness? Or, at least let us know the target groups of the IEC. As mentioned by Members earlier on, given the reality that there are so many people in Hong Kong, how can you reach out to all the different classes of people? Exactly, what kind of people does the IEC want to educate most? Could you let us know? If you could do take the challenge, it is most advisable to set an index of effectiveness for public monitoring.

Secondly, it is the funding issue. According to my understanding, the annual funding of the IEC amounts to about \$50 million. How is the sum of \$50 million to be actually spent? According to my estimate, the salaries of administrative staff take up at least one-third. I dare not set it to be as high as one-half. I do not know what your target group is. If the remaining fund is divided by the millions of Hong Kong people, how much can each person actually get? That is to say, I wonder how much money can be spent on teaching Hong Kong people how to make investment. I think the amount is very meagre. So, I dare not cherish any hope.

Though you may tell the SFC that when compared with the annual sum of \$21 million for public education, it already represents some increase, but I know not by how much it has gone up after deducting salaries. However, the sum just pales into insignificance by comparison with the huge number of investors, and is just a drop in the bucket. So I think it is necessary to state clearly what the target group of the IEC is. What are its goals? Otherwise, it is just like

throwing stones into the woods randomly, Secretary. It is not my wish to see my guess come true that ultimately the efforts of the IEC turn out to be all kinds of carnivals. Of course, I am not saying that it is useless to hold carnivals as it is also a soft promotion of investment education. However, I think the Secretary has a pretty good idea as to how much investment information investors can get or learn at carnivals. So, it is hoped that the authorities can make use of the limited resources and the limited manpower. As it is going to be set up, it is necessary for the IEC to clearly identify its targets and goals.

Finally, I would like to spend a little time on talking about investor education. I agree that investor education ought to be started from the time of childhood. However, Secretary SUEN is not here. Only Secretary CHAN is present. So I am not going to say much. I think it is necessary for children to receive personal financial management education.

President, I so submit.

MR PAUL CHAN (in Cantonese): President, I am very grateful to Mr CHAN Kin-por for moving this motion today. I remember that when I was small, my parents and elders invariably taught us to be industrious, hard-working and to have savings. At that time, a commercial song went like this: "Nothing is smaller than a drop of water, but it can gradually form an ocean. Nothing is smaller than a grain of sand, but it can gradually form a land mass." However, after working for decades, when I look back, I feel that in today's society, it is perhaps not enough to rely solely on hard work and savings. We may still be worried by the time of our retirement. So, it is necessary to learn some financial management skills.

To learn financial management does not mean that there is a need to speculate or get rich. Instead, it is to let us know about, say, risk management. It is necessary for us to know what will happen to our families in the event of an accident at work. Should we have some precaution measures in preparation for the eventuality of some other mishaps? This is especially true of the present time, which has witnessed drastic ups and downs. With interest rates in the negative or at zero point over the past few years, a person with some savings will, I think, still have a lot of fear and worries at the time of retirement. Hence, I am of the view that to learn financial management is mainly to help us draw up plans,

map out strategies, and shoulder personal responsibility. It is to do some planning for our future and to gain a firmer hold on today's living.

I originally put forward an amendment, but later had it withdrawn. The reason is that I have to leave for London tonight to attend a seminar scheduled to be held at the Westminster Abbey. I worried that I could not make it. My amendment mainly aims to amend two points: Firstly, in my opinion, it is necessary to place emphasis on a correct money concept when teaching financial management to children; the other point is that we should start teaching children from a young age to count their blessings, to share with others, and to care for the needs of the disadvantaged in the community. Why do I say so? It is because we will be daring enough to do anything in the absence of a correct money concept. We have heard many stories of young people becoming sex dealers merely to get pocket money, running into heavy credit card debts for having spent money not yet earned, and becoming bankrupt in the end.

On the other hand, a correct sense of value is equally important. Even if one's business fails or is financially ruined, one still needs not commit suicide by burning charcoal. There must be a way out. One can file for bankruptcy or apply for debt restructuring. One will be up and going again in due course. It is possible to start afresh.

With regard to a correct sense of value, I think it is even more important when one grows up. Take as example the familiar Lehman Brothers incident. If those running the business, such as those professionals in certain industries or individuals holding certain positions, all let money rule and take charge, and have no bottom-line or scruples when doing things, then woe to our society! If we see nothing but money while serving as Legislative Council Members or being professionals, it is likely for us to end up in jail ultimately.

I would like to add one point, namely, we should count our blessings and share with others. I am of the view that if there is fresh air for me to breathe when I wake up every morning and family members for me to hug, that already is a blessing. It is likely for us to run into problems in our daily life. I had lived on a tight budget for a long time, and had to run around to earn my living. However, I do not think I was unhappy then. Conversely, I can see that many people who have got rich or who are wealthy are far more worried than I. So, one's happiness does not depend entirely on whether one has got rich or is

wealthy. One's own views matter most. So, in my opinion, we should let children know how to count their blessings from childhood. Is it not already very nice for us to have parents, brothers and sisters as well as persons who love us?

On the other hand, we should make use of this kind of education to teach young persons not to be too self-centered. Besides oneself, there are other people in the world. When we are counting our blessings, if we compare our life here with that of the children in Africa or some other places, I think we are living in a society that is safer, fairer and with better protection.

The last point that I would like to add is that in my opinion, we should perhaps let children know in the course of our teaching that earnings from work can in fact be divided into three portions. Even the sum of \$6,000 to be given to each of us by the Financial Secretary can be divided into three portions. When we divide the money earned into three portions, one portion may be used to meet our daily needs; one portion is to be saved and used for investment for the future; the third portion may be used to support some causes which we consider to be worth supporting, such as environmental protection work, raising children, or some other projects. I think only such a sense of value is a correct concept. In this business world, especially this financial hub, money dominates our minds in matters ranging from advertisements to our daily life. It is time to wake up. Money in fact just constitutes part of our life. I think this kind of education should start right from childhood.

Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, if it is said that it is necessary to promote personal financial management education, I wonder to whom such a task should be given. Probably it is the Government.

The Government is disastrous in managing finance, unable to look after even itself. Government made estimate, but the estimate turned out to be wrong. Even money was incorrectly spent. Can we ask it to set aside one-third of the money for something good as suggested by Mr Paul CHAN? It now has so much money. Has it set aside one-third of it for something good? Will it listen to the advice of Mr Paul CHAN? If a double-track system is to be adopted for the transport subsidy scheme, I wonder how much that will cost. I think it will

just take up about 1/3000 of government revenue. The argument, however, has been so fierce that even "our teeth bleed."

When the Government is asked to give people money for meals, coffins are given instead. The people say, "I now have no money for meals." In response, it says, "Okay, I will let you have money to buy coffin when you turn 65, buy half of it." Next time we will bring it in for them. In fact, this is to seek advice from one who can offer none. It is a Government failing totally in the philosophy of public financial management, and turning all essential elements upside-down.

The Government just says it is necessary to save more money to deal with the forthcoming bubble. Who made that bubble? That bubble was made by bankers, those who teach people financial management. If you go to the HSBC outside, it is like that. If you have \$1 million, then they have a Once I went there, they said to me, "Mr LEUNG, are you having too much money? You had better go upstairs. There will be people to look after your finance whenever you have over \$1 million." In reply, I said, "No, thanks, buddy." In fact, on that occasion I had some urgent needs, and had to withdraw a little over \$10,000. That is precisely to seek advice from one who can give none.

Secondly, it is about the structure. There are four pillars to see to financial management. The Hong Kong Monetary Authority is in a mess, now being condemned by Hong Kong people. Every year, it uses the capital to speculate but has never deployed any money to benefit the people of Hong Kong. Okay, next comes the Securities and Futures Commission. With financial products under the management of these "two blades", either claims to have power but no responsibility, or to have responsibility but no power. Both just try to pass the buck to each other. Ultimately, that gave rise to the incident of Lehman Brothers structured products, which spelt disaster all over the place.

I have a question for Secretary K C CHAN. He now chairs the Financial Stability Committee which meets monthly. I asked if he had any minutes of meetings. Did he send emails to Joseph YAM? Joseph YAM was in charge of a certain financial management council or committee. I asked him whether or not he had socialized with bankers over the year, and whether or not there had been dispatch of emails. He gave me the answer here, saying, "Let me see. May be I can find it." K C CHAN said that Joseph YAM had to be consulted

first before he knew whether or not to produce it. Now two years have elapsed. What is he in charge of?

The honourable Legislative Council had queries here, but only verbal replies were given. As in the case of The Real Estate Developers Association of Hong Kong, every person can handle financial management. So money turns into bricks. I personally asked them, putting to them the question whether or not committee members of The Real Estate Developers Association of Hong Kong were human beings. Some of them are probably dead. How does it operate? The Hong Kong Government stated that it was to let The Real Estate Developers Association of Hong Kong regulate themselves, and that members of the public had no right to know. The Cable TV was there with me asking for information. They said, "Mr LEUNG, I got you wrong. I thought you were asking for the name list of the Executive Committee." I said, "Wrong. I am asking for the name list of members." This is just like the incident with Ms Emily LAU today. It was taped, buddy.

It is in this way that the Government carries out monitoring. There is also the Office of the Commissioner of Insurance, the one for which Mr CHAN Kin-por is responsible. It is just like that. Again, what it has done is unknown. Mr CHAN Kin-por probably detests them very much. At present, there has not been the slightest progress. However, these days the market of the insurance industry is having rapid development. There is one more thing, which is precisely what I am good at. The Mandatory Provident Fund Schemes Authority is just the same. The management fees are the most expensive in the world. People's contributions are limited. The Government still has to pump in \$6,000. Those fellows do not offer professional advice. Given such results, it should not be like that even if one were to quench thirst by drinking poison — it is instant death.

The nitty-gritty of public finance management is the redistribution of resources, using the remaining money to make society develop. Just as stated by Mr Paul CHAN, one-third of the money should be used on development — he is leaving right away for Westminster Abbey — this bears out what he said about personal financial management. Have one third of the money been set aside for development?

With regard to education, I really find it infuriating. Michael SUEN is still putting on airs. People from King's College are telling him to step down.

The legislation on school-based management in reality cannot be school-based when classes are being cut. What sort of management is this? But I am not going to say anymore. It is futile to reprimand. However, I have an idea. To talk about personal financial management here really smacks of the story of asking one to eat minced meat congee. The purpose of the League of Social Democrats throwing a lunch box of rice with garoupa fish at Donald TSANG was to ask him what he had done for the 1.3 million poor people. Those people have no money to manage at all. How many people in Hong Kong can have money to manage? Those with some money can do so, but it does not keep a watch, resulting in the money being swallowed by bankers. How can those with no money talk about financial management?

So, to be honest, this topic is just a debate topic for secondary students in school. President, you are fair, but cannot speak. I wonder who is the best. I think this Chamber is really too detached from reality. It is far too detached from reality. I have no wish to lash out at Mr CHAN Kin-por. What we have to address now is not this issue. Inter-generation poverty, wealth gap, the unavailability of money for management, and the collusion between Government and the business sector are the issues requiring our attention. It is precisely collusion between Government and the business sector that leads people to bankruptcy in the name of financial management. Real estate developers are the same. But the Government does not regulate them. What is the talk about financial management for? What a "waste of breath"!

MR KAM NAI-WAI (in Cantonese): President, I originally had no intention to speak. However, it so happens that I just came back from a general meeting of those victimized by the Lehman Brothers incident. I find this topic, one on promoting personal financial management, somewhat paradoxical. Under the redemption proposal just offered by the Chartered Bank to the victims, the more money one has with the bank, the less compensation one will get. I know not how to tell people to manage their finance. You deposit money in banks The proposal released two days ago is that the more money one has with the Chartered Bank, the less compensation one will get. I do not know how to tell people that having deposits or savings in banks is a good habit. I do not know anymore how to — just as mentioned earlier on — recommend that to our children or the public. Later let Secretary K C CHAN explain why the more money one has with the bank, the less compensation one will get.

Quite a few colleagues also wonder if it is the right cure for today's sickness to talk about promoting personal financial management now. At present, the wealth gap is growing and you are asking grass-rooters to manage their finance? Just as mentioned by Mr LEUNG Kwok-hung earlier on, he does not know whether to cry or laugh with regard to this There is not enough for food, is this right? I once heard an old woman saying that the sum of \$6,000 being handed out by the Financial Secretary was equivalent to her whole year's income. I think even the Financial Secretary will find it heartbreaking on seeing her.

In fact, surely, to the children of some middle-class families We are now giving out \$6,000. Just now I was watching television in the Ante-Chamber and there was an interviewee who just turned 17. He does not know if he can get the \$6,000. He is a few months short like my daughter, also a few months short and she is considering The interviewee says he is considering buying an iPad2. How are we to inspire and teach our children to go for personal financial management?

Colleagues mentioned one thing earlier on. We all see the philosophy of financial management on the part of the Government. Is it one of keeping expenditure within the limits of revenue? Is it a prudent approach to financial management? In fact, over the years, the impression on the people by the Government has been one of prudent financial management. Money is being spent with great care. However, just as reported by television stations or newspapers, what it is today disproves what it was yesterday. On the concept of financial management, the people have totally lost their confidence in the Government. Given this, I wonder how we are to teach our children or promote personal financial management education. It is very hard to teach that. Just as in the case of Chartered Bank's redemption proposal mentioned earlier on, the reality is that the more money one has with the bank, the less compensation one will get. You tell others to manage their finance prudently, yet it is not so in the case of the Government. The impression that it gives people is one of squandering. Under such social environment and influence, it is likely that, just as stated by Mr Paul CHAN, parents have to slowly teach their children how to spend money. Sometimes we are under the influence of social environment.

Of course, I see that in the motion there is reference to the issue of the Investor Education Council (IEC). This too gives us the impression of something which, though not totally useless, is not worth keeping. We cannot

tell — Ms Starry LEE has said a lot; I am not going to repeat — how useful this IEC can be. I agree with quite a few colleagues' view that we should teach some of the knowledge from the time of primary or secondary school and promote personal financial management education at primary and secondary levels. However, I wonder if such a target can be accomplished if we set up this IEC now. Mr James TO just now talked about taking the matter to teachers. Teachers say they are busy. But you still ask them to take up extra work in this area. You are being asked to implement small class teaching but you refuse. That is to say, you do not want to implement small class teaching in secondary schools. Are they able to cope with so much of the work in this area? Can they do this, teaching the students and promoting this so-called personal financial management education? This too is uncertain.

Today, only Secretary K C CHAN is present. Officials of the Education Bureau are not here. We have just discussed the issue concerning Direct Subsidy Scheme (DSS) schools. Actually it is very simple. If you have more money and can afford tuition fees in the region of tens of thousand dollars, you have a good chance to get into a DSS school. The general public believe so. So, we should not set our eyes on such a narrow situation when promoting this education on financial management. Now our wealth gap is so serious, many people are not happy with the education system. Our financial system also has so many defects. As a result, many people are making criticism. We are all talking about the Lehman Brothers incident. These lessons still remain fresh on our mind. Hence, I wonder if it is really so easy to promote personal financial management education. This is highly questionable and challenging.

Of course, we thank Mr CHAN Kin-por for bringing up this discussion. However, I am not that optimistic. That is to say, as far as this kind of motion is concerned, so long as Hong Kong puts emphasis only on making quick money and keeps on relying just on real estate, finance Today I heard something about the 12th Five-Year Plan which states the hope for us to go on as a financial hub. If such mentality persists, it is, I think, very hard to promote personal financial management education.

President, I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, again I would like to thank Mr CHAN Kin-por for moving the motion on promoting personal financial management education. I also thank Members for the valuable ideas they gave just now.

There have been a lot of ideas, which converge on one point, namely, that personal financial management education involves wide-ranging discussion about the sense of value. Surely, in respect of children, the ways to encourage them to save up and resist the culture of spending involve efforts by different parties, including society, families and schools. Only in this way can a positive culture be promoted. Earlier on, quite a few Members made reference to the great importance of cultivating a sense of value. In my opinion, this is not something which investor education alone can touch on. Instead, it involves a broader social topic.

Precisely on account of this, Members can see the problem of how some children or young people of today can build up a correct sense of savings and nurture a long-term concept of financial management amidst this spending culture. In pointing out the problem, Members brought us a big challenge. That is, as the Government or society, how to instil better concepts into our young people through the encouragement of schools and families. I do not want to be off the point too much as this topic too can take us back to the topics on investor education and concept of financial management. Financial management is not necessarily about saving up and resisting the spending culture alone. It is about how to get a *bona fide* concept of financial management, one that makes it possible for us to know how to invest correctly when we have savings and to ensure the stability of financial management. This is worth promoting and teaching.

With regard to investor education, I notice that quite a few statutory bodies and financial organizations are taking part in the work of promoting personal financial management education. However, in our opinion, if we look ahead of us, there is a better way, namely, to get a more dedicated organization to holistically oversee, promote and study investor education as a whole.

It is hoped that the Investor Education Council (IEC) to be set up by the Securities and Futures Commission (SFC) will holistically promote and enhance our overall financial literacy, devise a strategy to improve such literacy, especially focusing on making investors understand their rights and responsibilities, exercise their decision-making skills and improve the generic knowledge of financial products so that they will be able to command more and better information and make more befitting financial management decisions when deciding on their investment. Surely, as pointed out by Ms Starry LEE just now, we have work in three areas: First, to regularly disseminate to the public messages on financial management education through publicity on the media; second, to launch out-reaching education programmes to meet the specific needs of target groups, especially giving training to members of the financial services and educational sectors for them to promote investor education; and third, to set up website for the public to look up detailed information about financial management education in accordance with their needs at any time.

The IEC will take the initiative to approach all the organizations dealing with financial management education, including industry bodies and financial services providers, to rationalize, through co-operation and co-ordination, the work of financial management education on both sides so as to avoid any overlapping or omission. It is hoped that the IEC can devise a list of key areas of work as soon as possible so as to make sure that it will not duplicate the areas that have been effectively covered by other bodies. In this aspect, the IEC Board and advisory groups will have to help in order to do the planning in conjunction with other regulatory bodies.

Just as mentioned by Mr CHAN Kin-por in the motion, it is important to instil financial management knowledge into young people at school. Just as stated by me earlier on, the words of Mr WONG Kwok-hing are also very sound. Speaking in plain and simple language, he expressed the hope for young people to save up more and build up good and correct concepts about family and money. Dr PAN too stated that young people should not get loans without making careful consideration. It is our wish to instil into young people these concepts of value, ones that Members so vividly expounded upon. To this end, we have to co-operate with the Education Bureau to design school courses in personal financial management, conduct seminars and workshops, and provide teaching materials to help teachers teach financial management courses. It is hoped that

this can give young people at an early age a good foundation of financial management knowledge and make them understand the correct attitude of investment so as to avoid plunging into debt crises later on.

Ms Starry LEE and some other Members also mentioned the broad scope of our work. We can all see the trend and knowledge level of today's consumers and investors. Earlier on our discussions also mentioned a lot of our views on local investors and consumers. Is it a healthy situation? How to help us get started with the work in the future? It is hoped that in the first year following its inception, the IEC will conduct a thorough survey to assess the basic level of local people's financial literacy and financial management ability so as to find out their attitude and practices in financial management as well as the ability to exercise effective financial management. Findings of the survey can help the IEC set the priority order of its work and formulate relevant measures. To assess the effectiveness of its work, it is hoped that the survey can be conducted on an on-going basis.

The IEC will be set up as a company wholly owned by the SFC. The work of investor education now performed by the SFC will be taken over and strengthened by the IEC. Also, the education programmes will be expanded on this basis so as to cover the entire financial services industry.

We understand that investor education cannot turn every investor into an investment expert. This is impossible. We cannot make them understand how to analyse charts and formulate various investment strategies. This is impossible. The protection of investors cannot depend solely on education. In addition to improving their basic knowledge by means of education, it is still necessary to beef up regulatory efforts for the protection of investors. In this respect, our regulatory bodies, including the SFC and the Monetary Authority, have, over the past two years, incessantly stepped up the disclosure of investment products as well as efforts to regulate the selling of investment products. It is hoped that they can complement each other. There can be better protection for investors on enhancing investors' knowledge level and beefing up the regulatory efforts. This can also ensure a good reputation for Hong Kong as an international financial hub.

Finally, I would like to reiterate that the Government has all along attached great importance to the protection of investors and endorsed the significance of personal financial management education. Different forms of financial

management education will be put into effect by the forthcoming IEC. This is to be further supplemented by efforts on personal financial management education in school curriculum set by the Education Bureau. With hard efforts from different quarters, we believe that it is possible to make personal financial management education better still.

Thank you.

PRESIDENT (in Cantonese): Mr CHAN Kin-por, you may now speak in response. You still have three minutes 29 seconds.

MR CHAN KIN-POR (in Cantonese): President, Mr Paul CHAN asked me to make some clarification for him before he left just now. He said: Income should be divided into three portions, namely, for living, savings, and charities. However, the three portions need not be equal. That is to say, the share of each portion may not necessarily be one-third.

Earlier on, Mr James TO opined that the objective of financial management education might not fit all people, and that it might only benefit the middle or the junior-middle class. Mr LEUNG Kwok-hung even opined that there was no money to manage.

The ideas that I gave were very theoretical. However, I think all of us should know about financial management. Why? Among people in the street, some are financially very "well-off" but some are unable to make both ends meet. Even though it is possible for one to be utterly poor, we have seen many cases in which rich people slowly rose from miserable poverty. It is so in my case. It is so in the case of many people. So, if one says that there is no need to consider anything because one is on low income or has no asset, and is thinking of relying on the Government, then, in my opinion, Lady Luck definitely will not knock on the door. The Government only provides a big setting. Among the people in this big setting, hard efforts matter very much and decide who can ultimately stand out and finally get out of poverty and move up.

Earlier on, Mr WONG Kwok-hing made mention of the point that whilst banks in the past encouraged people to save up, today people are being encouraged to get loans. I think his observation is correct. So, it is even more

necessary for us to let people have correct financial management knowledge to avoid getting into traps of spending.

Just now Mr WONG Kwok-hing led us back to scenes of the past, for example, the coin box of Hong Kong and Shanghai Banking Corporation and the "God of Wealth" coin box of Heng Sang Bank. In the past, we had small change. It is not so now. Everybody uses the Octopus Card. Hence, it is of no use even if a coin box is given now. There is, however, a piece of good news. I know that there are still savings accounts for children at two banks at least. One who wishes to teach children to save up may open such a children savings account.

Finally, I would like to thank Honourable Members. Though the meeting has been in session for 52 hours over four consecutive days, seven Members still spoke on my motion. So I think this motion is the one passed most quickly in recent years. Nevertheless, I hope that the Government does understand the importance of promoting personal financial management. It is also hoped that they do attach importance to the task and actually carry it out. Here I have no wish to get into the way of Members and all the staff members of the Legislative Council. I must thank you all. May you all sleep well tonight (*Laughter*). Thanks to you all.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Kin-por be passed. Will those in favour raise their hands?

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 9 March 2011.

Adjourned accordingly at thirteen minutes past Eight o'clock.

Annex II

Legislative Council (Amendment) Bill 2010

Committee StageAmendment to be moved by the Honourable LAU Wai-hingClauseAmendment Proposed

43(1)

[NEGATIVED]

In the proposed section 7(1A)(a), by deleting “15” and substituting “10”.

Legislative Council (Amendment) Bill 2010

Committee StageAmendments to be moved by Dr. the Honourable Margaret NG

<u>Clause</u>	<u>Amendment Proposed</u>
3	By renumbering the clause as clause 3(1).
<div style="border: 1px dashed black; padding: 2px; width: fit-content;"> NOT PROCEEDED WITH </div>	By adding—
3	“(2) Section 3(1), English text, definition of <i>term of office</i> — Repeal the full stop Substitute a semicolon.
<div style="border: 1px dashed black; padding: 2px; width: fit-content;"> NOT PROCEEDED WITH </div>	(3) Section 3(1)— Add in alphabetical order <i>“relevant persons</i> (有關人士) means in relation to a functional constituency specified in sections 20P, 20Q, 20R and 20S— <ol style="list-style-type: none"> (a) in the case where the member is a limited company, up to 6 members of the board of directors of that company (and no more than 6 such members of the board of directors of that company shall be registered as electors in the relevant functional constituency in respect of the aforementioned member); (b) in the case where the member is a partnership, up to 6 partners of that partnership (and no more than 6 such partners of that partnership shall be registered as electors in the relevant functional constituency in respect of the aforementioned member); (c) in the case where the member is a sole proprietorship, the sole proprietor of that proprietorship; (d) in the case where the member is an organization or body (other than a limited company, partnership or sole proprietorship), the members of the management or executive committee (however described) of that organization or body; (e) in the case where none of the persons referred to in paragraph (a), (b), (c) or (d) is entitled to be registered as an elector, or in the case where the member is an

organization or body referred to in paragraph (d) but there is no management or executive committee (however described) of that organization or body, the chief executive (however described) of that company, partnership, sole proprietorship or other organization or body, as the case may be;

(f) in the case where the chief executive (however described) referred to in paragraph (e) is not entitled to be registered as an elector, a member of the senior management of that company, partnership, sole proprietorship or other organization or body, as the case may be; or

(g) where any member of the board of directors referred to in paragraph (a) is a limited company or a partnership, a relevant person shall be, in respect of the aforementioned member—

(i) any 1 of the individual members of the board of directors or any 1 of the partners, as the case may be, of the aforementioned member;

(ii) in the case where there is no such individual member of the board of directors of the aforementioned member which is a limited company, or in the case where none of the individual members or partners, as the case may be, referred to in subparagraph (i) is entitled to be registered as an elector, the chief executive (however described) of the aforementioned member; or

(iii) in the case where the chief executive (however described) referred to in subparagraph (ii) is not entitled to be registered as an elector, a member of the senior management of the aforementioned member, and no more than 1 such individual member, partner, chief executive (however described) or member of the senior management, as the case may be, shall be registered as an elector in the relevant functional constituency in respect of the aforementioned member;

working persons (在職人士) in relation to a functional constituency specified in sections 20B, 20C, 20D, 20N, 20O, 20T, 20U, 20V, 20W, 20X,

20Y, 20Z and 20ZA, means persons engaged in economic activities in Hong Kong for remuneration (including employees, employers, partners, sole proprietors, directors of companies and self-employed persons), and for the purpose of this definition —

- (a) *economic activities* (經濟活動) includes activities in connection with trades or professions or the provision of services undertaken by establishments classified under different Major Industry Groups in accordance with the classification scheme known as the “Hong Kong Standard Industrial Classification Version 2.0” (being an adapted version of the United Nations’ International Standard Industrial Classification) which are identified by the 3-digit codes and their titles and descriptions, as contained in the July 2009 edition of the Hong Kong Standard Industrial Classification issued by the Census and Statistics Department;
- (b) *remuneration* (薪酬) includes salaries, wages, allowances, fees or charges, but excludes benefits in kind.”.”.

New
 NOT PROCEEDED
 WITH

By adding —

“3A. Section 18 heading amended

Section 18, heading, after “constituencies” —

Add

“and District Council (second) functional constituency”.”.

New
 NEGATIVED

By adding —

“5A. Section 20B substituted

Section 20B —

Repeal the section

Substitute

“20B. Composition of the agriculture and fisheries functional constituency

The agriculture and fisheries functional constituency is composed of the working persons of the major industry groups below —

- (a) 011 (Growing of vegetables, melons, flowers and other non-perennial crops);
- (b) 012 (Growing of fruits, drug and beverage crops and other perennial crops);

- (c) 013 (Plant propagation);
- (d) 014 (Animal production);
- (e) 015 (Mixed farming);
- (f) 016 (Support activities to agriculture and post-harvest crop activities);
- (g) 017 (Hunting, trapping and related service activities);
- (h) 020 (Forestry activities);
- (i) 031 (Fishing);
- (j) 032 (Aquaculture);
- (k) 813 (Landscape care and greenery services).”

[NEGATIVED]

5B. Section 20C substituted

Section 20C —

Repeal the section

Substitute

“20C. Composition of the insurance functional constituency

The insurance functional constituency is composed of the working persons of the major industry groups below —

- (a) 651 (Insurance underwriting);
- (b) 652 (Pension funding);
- (c) 662 (Activities auxiliary to insurance and pension).”

[NEGATIVED]

5C. Section 20D substituted

Section 20D —

Repeal the section

Substitute

“20D. Composition of the transport functional constituency

The transport functional constituency is composed of the working persons of the major industry groups below —

- (a) 491 (Railway and cable transport);
- (b) 492 (Land transport by road);
- (c) 499 (Other land transport services);
- (d) 501 (Cross-border water transport);
- (e) 502 (Inland water transport);
- (f) 510 (Air transport);
- (g) 521 (Warehousing and storage);
- (h) 522 (Support activities for transportation);
- (i) 531 (Postal activities);
- (j) 532 (Courier activities).”

New

NEGATIVED

By adding—

“6A. Section 20L substituted

Section 20L—

Repeal the section**Substitute****“20L. Composition of the labour functional constituency**

The labour functional constituency is composed of officers or members of trade unions registered under section 17 of the Trade Unions Ordinance (Cap. 332) who are the voting members of the trade unions.”.

NEGATIVED

6B. Section 20N substituted

Section 20N—

Repeal the section**Substitute****“20N. Composition of the real estate and construction functional constituency**

The real estate and construction functional constituency is composed of the working persons of the major industry groups below—

- (a) 411 (Erection of architectural superstructures);
- (b) 412 (Structural steel framework erection);
- (c) 419 (Other new building construction works);
- (d) 421 (Construction of civil engineering projects);
- (e) 422 (Miscellaneous civil engineering works);
- (f) 431 (Demolition and site preparation);
- (g) 432 (Building services installation and maintenance activities);
- (h) 439 (Building finishing and other specialized construction activities);
- (i) 681 (Real estate activities);
- (j) 682 (Real estate activities on a fee or contract basis).”.

NEGATIVED

6C. Section 20O substituted

Section 20O—

Repeal the section**Substitute****“20O. Composition of the tourism functional constituency**

The tourism functional constituency is composed of the working persons of the major

industry groups below —

- (a) 550 (Short term accommodation activities);
- (b) 791 (Travel agency activities);
- (c) 799 (Other reservation service and tourist- related activities);
- (d) 920 (Activities of amusement parks and theme parks).”.

[NEGATIVED]

6D. Section 20P substituted

Section 20P —

Repeal the section

Substitute

“20P. Composition of the commercial (first) functional constituency

The commercial (first) functional constituency is composed of the relevant persons in respect of members of The Hong Kong General Chamber of Commerce entitled to vote at general meetings of the Chamber.”.

[NEGATIVED]

6E. Section 20Q substituted

Section 20Q —

Repeal the section

Substitute

“20Q. Composition of the commercial (second) functional constituency

The commercial (second) functional constituency is composed of the persons below —

- (a) Individual members of The Chinese General Chamber of Commerce entitled to vote at general meetings of the Chamber;
- (b) Relevant persons in respect of members (other than individual members) of The Chinese General Chamber of Commerce entitled to vote at general meetings of the Chamber.”.

[NEGATIVED]

6F. Section 20R substituted

Section 20R —

Repeal the section

Substitute

“20R. Composition of the industrial (first) functional constituency

The industrial (first) functional constituency is composed of the persons below —

- (a) Individual members of the Federation of Hong Kong Industries entitled to vote at

- general meetings of the Federation;
- (b) Relevant persons in respect of members (other than individual members) of the Federation of Hong Kong Industries entitled to vote at general meetings of the Federation.”.

NEGATIVED

6G. Section 20S substituted

Section 20S—

Repeal the section

Substitute

“20S. Composition of the industrial (second) functional constituency

The industrial (second) functional constituency is composed of the relevant persons in respect of members of The Chinese Manufacturers’ Association of Hong Kong entitled to vote at general meetings of the Association.”.

NEGATIVED

6H. Section 20T substituted

Section 20T—

Repeal the section

Substitute

“20T. Composition of the finance functional constituency

The finance functional constituency is composed of the working persons of the major industry group below—

- (a) 641 (Monetary intermediation).”.

NEGATIVED

6I. Section 20U substituted

Section 20U—

Repeal the section

Substitute

“20U. Composition of the financial services functional constituency

The finance services functional constituency is composed of the working persons of the major industry groups below—

- (a) 642 (Investment and holding companies);
- (b) 644 (Trust, funds and similar financial entities);
- (c) 649 (Other financial service activities);
- (d) 661 (Activities auxiliary to financial service activities (except insurance and pension funding)) ;
- (e) 663 (Fund management).”.

7
 NOT PROCEEDED
 WITH

By deleting the clause and substituting—

“7. Section 20V substituted

Section 20V —

Repeal the section

Substitute

“20V. Composition of the sports, performing arts, culture and publications functional constituency

The sports, performing arts, culture and publication functional constituency is composed of the working persons of the major industry groups below —

- (a) 181 (Printing and service activities related to printing);
- (b) 581 (Publishing of books, periodicals and other publishing activities);
- (c) 591 (Motion picture, video and television programme activities);
- (d) 592 (Sound recording and music publishing activities);
- (e) 601 (Radio broadcasting);
- (f) 602 (Television programme and broadcasting activities);
- (g) 901 (Performing arts activities);
- (h) 902 (Creative artists, musicians and writers);
- (i) 903 (Performing arts venue operation);
- (j) 910 (Libraries, archives, museums and other culture activities);
- (k) 931 (Sports activities);
- (l) 939 (Other entertainment activities).”.

8
 NOT PROCEEDED
 WITH

By deleting the clause and substituting—

“8. Section 20W substituted

Section 20W —

Repeal the section

Substitute

“20W. Composition of the import and export functional constituency

The import and export functional constituency is composed of the working persons of the major industry groups below —

- (a) 451 (Export trade);
- (b) 452 (Import for wholesale).”.

New

[NEGATIVED]

By adding—

“8A. Section 20X substituted

Section 20X—

Repeal the section**Substitute****“20X. Composition of the textiles and garment functional constituency**

The textiles and garment functional constituency is composed of the working persons of the major industry groups below—

- (a) 131 (Spinning, weaving and finishing of textiles);
- (b) 139 (Manufacture of other textiles);
- (c) 141 (Manufacture of wearing apparel (except fur, knitted and crocheted apparel));
- (d) 142 (Manufacture of articles of fur);
- (e) 143 (Manufacture of knitted and crocheted apparel).”.

[NEGATIVED]

8B. Section 20Y substituted

Section 20Y—

Repeal the section**Substitute—****“20Y. Composition of the wholesale and retail functional constituency**

The wholesale and retail functional constituency is composed of the working persons of the major industry groups below—

- (a) 460 (Wholesale);
- (b) 471 (Retail sale in non-specialized stores);
- (c) 472 (Retail sale of food, beverages and tobacco in specialized stores);
- (d) 473 (Retail sale of fuel);
- (e) 474 (Retail sale of information and communications equipment in specialized stores);
- (f) 475 (Retail sale of other household equipment in specialized stores);
- (g) 476 (Retail sale of culture and recreation goods in specialized stores);
- (h) 477 (Retail sale of other goods in specialized stores);
- (i) 478 (Non-store retailing).”.

9

NOT PROCEEDED
WITH

By deleting the clause and substituting—

“9. Section 20Z substituted

Section 20Z—

Repeal the section

Substitute

“20Z. Composition of the information technology functional constituency

The information technology functional constituency is composed of the working persons of the major industry groups below—

- (a) 582 (Software publishing);
- (b) 611 (Telecommunications network operation);
- (c) 619 (Other telecommunications activities);
- (d) 620 (Information technology service activities);
- (e) 631 (Web portals, data processing, hosting and related activities);
- (f) 639 (Other information service activities);
- (g) 822 (Activities of call centres);
- (h) 952 (Repair of computers and communications equipment).”.

New

NEGATIVED

By adding—

“9A. Section 20ZA substituted

Section 20ZA—

Repeal the section

Substitute—

“20ZA. Composition of the catering functional constituency

The catering functional constituency is composed of the working persons of the major industry groups below—

- (a) 561 (Restaurants and other meal service activities);
- (b) 562 (Event catering and other food service activities);
- (c) 563 (Beverage serving places).”.

12(3)

NEGATIVED

In the proposed section 21(c), by adding “, 1 each from the area of a geographical constituency established in accordance with Part III” after “constituency”.

15(1)

NEGATIVED

By deleting “and the District Council (second) functional constituency”.

- 15(3)
[NEGATIVED]
- In the proposed section 37(2)(g)—
- (a) by deleting “and the District Council (second) functional constituency”;
- (b) by deleting “that Ordinance.” and substituting “that Ordinance and”.
- 15(3)
[NEGATIVED]
- By adding—
- “(h) in the case of the District Council (second) functional constituency, is a person who is specified under section 20 of the District Councils Ordinance (Cap. 547).”.
- 17
[NEGATIVED]
- By deleting the clause.
- 18
[NEGATIVED]
- By deleting the clause.
- 32
[NOT PROCEEDED WITH]
- By deleting the clause and substituting—
- “**32. Schedule 1 repealed (Composition of the agriculture and fisheries functional constituency)**
Schedule 1—
Repeal the Schedule.”.
- 33
[NOT PROCEEDED WITH]
- By deleting the clause and substituting—
- “**33. Schedule 1A repealed (Composition of the transport functional constituency)**
Schedule 1A—
Repeal the Schedule.”.
- 34
[NOT PROCEEDED WITH]
- By deleting the clause and substituting—
- “**34. Schedule 1B repealed (Composition of the sports, performing arts, culture and publication functional constituency)**
Schedule 1B—
Repeal the Schedule.”.
- 35
[NOT PROCEEDED WITH]
- By deleting the clause and substituting—
- “**35. Schedule 1C repealed (Composition of the wholesale and retail functional constituency)**
Schedule 1C—
Repeal the Schedule.”.
- 36
[NOT PROCEEDED WITH]
- By deleting the clause and substituting—
- “**36. Schedule 1D repealed (Composition of the information technology functional constituency)**
Schedule 1D—
Repeal the Schedule.”.

New
[NEGATIVED]

By adding –

“36A. Schedule 1E repealed (Composition of the catering functional constituency)

Schedule 1E –

Repeal the Schedule.”.

43(1)
[NEGATIVED]

In the proposed section 7 (1A)(a), by deleting “an elector registered in respect of the District Council (first) functional constituency” and substituting “specified under section 29 of the District Councils Ordinance (Cap. 547)”.

Annex III

MOTOR VEHICLE IDLING (FIXED PENALTY) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for the Environment

<u>Clause</u>	<u>Amendment Proposed</u>
2(1)	In the definition of "driving authority", by deleting "'driving authority" (駕駛權限)" and substituting "'driving licence or permit" (駕駛執照或許可證)".
2	By deleting subclause (2).
6(1)	By adding ", if the Director is satisfied that exceptional circumstances exist that make it impractical or unreasonable for the driver or drivers of the class to comply with section 5" after "fit".
8	In the Chinese text, by deleting subclause (2) and substituting - <p style="text-align: center;">“(2) 給予有關通知書的方式是將之當面交付有關的人，或附著於或張貼於有關汽車上。”。</p>

- 9 In the heading, by deleting "authority" and substituting "licence or permit".
- 9(1)(b) By deleting "authority" and substituting "licence or permit".
- 11(3)(b) In the Chinese text, by deleting "有關的拒絕的日期後" and substituting "罰款通知書遭拒絕接受當日後".
- 14(2) (a) In the English text, by deleting "attention" and substituting "notice".
(b) In the Chinese text, by adding "本身" after "申請人".
- 15(1) (a) In the English text, by deleting "attention" and substituting "notice".
(b) In the Chinese text, by adding "本身" after "信納申請人".
- 17 By deleting "the person who is the subject of" and substituting "the defendant in relation to".

-
- 18(1) (a) By deleting "a person served with a summons" and substituting "the defendant".
- (b) By adding "of a complaint" after "the hearing".
- (c) By deleting "the person" and substituting "the defendant".
- 18(2) (a) By deleting "of the person" and substituting "of the defendant".
- (b) In paragraph (a), by adding "on the defendant" after "the summons".
- (c) In paragraph (b), by deleting "person" and substituting "defendant".
- 18(3) By deleting "person" and substituting "defendant".
- 18(4) (a) By deleting "person" and substituting "defendant".
- (b) By deleting "person's" and substituting "defendant's".
- 19(2) By adding "and, if the defendant does not at that stage expressly put in issue any allegation of fact stated in a certificate under section 24

that has been produced by the complainant, the defendant cannot at any later stage dispute or adduce evidence to contradict that fact without the leave of the magistrate" after "defence".

- 19 By deleting subclause (3).
- 20(2) By adding "under section 21(2)" after "proceedings".
- 21(2) (a) By deleting "a person" and substituting "the defendant".
(b) By deleting "the person" and substituting "the defendant".
- 23(1) By deleting "person who is served with a summons to answer" and substituting "defendant who has been served with a summons in relation to".
- 23(2) and (5) By deleting "person" and substituting "defendant".
- New By adding -

"33. Consequential amendments

- (1) Section 113C(1)(c) of the Criminal

Procedure Ordinance (Cap. 221) is amended by repealing "or the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600)" and substituting ", the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (of 2011)".

(2) Section 2(1B) and (3) of the Rehabilitation of Offenders Ordinance (Cap. 297) is amended by repealing "or the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600)" and substituting ", the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (of 2011)".

Schedule 1,
section 2

- (a) In the heading, by deleting "**Taxis, green and red minibuses and buses**" and substituting "**Passenger transport vehicles**".
- (b) By deleting subsection (1) and substituting -
- "(1) Section 5 does not apply to a driver of a taxi that is at a taxi stand."
- (c) By deleting subsection (4) and substituting -

"(4) Section 5 does not apply to a driver of either of the following vehicles that has any passenger on board -

- (a) a bus;
- (b) a school private light bus.

(4A) Section 5 does not apply to a driver of a franchised bus at any time when the bus is available for boarding by passengers."

- (d) In subsection (5), by deleting the definition of "designated area".
- (e) In subsection (5), in the Chinese text, in the definition of "綠色小巴士", by deleting the full stop and substituting a semicolon.
- (f) In subsection (5), by adding -
"school private light bus" (學校私家小巴) has the same meaning as in the Road Traffic Ordinance (Cap. 374);".

Schedule 1, section 7 By deleting everything after paragraph (b).

Schedule 1, section 8 (a) In the heading, by deleting "**Emissions**" and substituting "**Vehicles necessarily idling for compliance**".

(b) By deleting paragraph (a) and substituting -

"(a) testing the vehicle in accordance with a requirement under the Road Traffic Ordinance (Cap. 374) or to determine whether the vehicle complies with the Air Pollution Control Ordinance (Cap. 311) or the Noise Control Ordinance (Cap. 400); or".

Schedule 1 By adding -

"9. Rainstorms and very hot weather

(1) Section 5 does not apply to a driver of a motor vehicle -

(a) at any time when a rainstorm warning or very hot weather warning is in force; and

(b) if the warning is in force for part of a day only, at any time after the warning has ceased to be in force until midnight on that day.

(2) In this section -

"rainstorm warning" (暴雨警告) means a warning issued by the Director of the Hong Kong Observatory by the use of the heavy

rainstorm signal commonly referred to
as Amber, Red or Black;

“very hot weather warning” (酷熱天氣警告) means
a warning issued by the Director of the
Hong Kong Observatory commonly referred
to as a very hot weather warning.”.