

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 13 June 2018

**The Council met at
thirty-one minutes past Eleven o'clock**

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE CHAN HAK-KAN, B.B.S., J.P.

THE HONOURABLE CHAN KIN-POR, G.B.S., J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, S.B.S., J.P.

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

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

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN, B.B.S.

THE HONOURABLE FRANKIE YICK CHI-MING, S.B.S., J.P.

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING, B.B.S.

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, S.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, B.B.S., J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG, J.P.

THE HONOURABLE DENNIS KWOK WING-HANG

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, S.B.S., J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, B.B.S., J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, S.B.S., J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, S.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE ALVIN YEUNG

THE HONOURABLE ANDREW WAN SIU-KIN

THE HONOURABLE CHU HOI-DICK

THE HONOURABLE JIMMY NG WING-KA, J.P.

DR THE HONOURABLE JUNIUS HO KWAN-YIU, J.P.

THE HONOURABLE HO KAI-MING

THE HONOURABLE LAM CHEUK-TING

THE HONOURABLE HOLDEN CHOW HO-DING

THE HONOURABLE SHIU KA-FAI

THE HONOURABLE SHIU KA-CHUN

THE HONOURABLE WILSON OR CHONG-SHING, M.H.

THE HONOURABLE YUNG HOI-YAN

DR THE HONOURABLE PIERRE CHAN

THE HONOURABLE CHAN CHUN-YING

THE HONOURABLE TANYA CHAN

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE HUI CHI-FUNG

THE HONOURABLE LUK CHUNG-HUNG

THE HONOURABLE LAU KWOK-FAN, M.H.

THE HONOURABLE KENNETH LAU IP-KEUNG, B.B.S., M.H., J.P.

DR THE HONOURABLE CHENG CHUNG-TAI

THE HONOURABLE KWONG CHUN-YU

THE HONOURABLE JEREMY TAM MAN-HO

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE AU NOK-HIN

THE HONOURABLE VINCENT CHENG WING-SHUN, M.H.

THE HONOURABLE TONY TSE WAI-CHUEN, B.B.S.

PUBLIC OFFICERS ATTENDING:

MR TSE CHIN-WAN, B.B.S., J.P.
UNDER SECRETARY FOR THE ENVIRONMENT, AND
SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE NICHOLAS W. YANG, G.B.S., J.P.
SECRETARY FOR INNOVATION AND TECHNOLOGY

THE HONOURABLE JAMES HENRY LAU JR., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE FRANK CHAN FAN, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

PROF THE HONOURABLE SOPHIA CHAN SIU-CHEE, J.P.
SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE EDWARD YAU TANG-WAH, G.B.S., J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE PATRICK NIP TAK-KUEN, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

DR RAYMOND SO WAI-MAN, B.B.S., J.P.
UNDER SECRETARY FOR TRANSPORT AND HOUSING

CLERKS IN ATTENDANCE:

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MS DORA WAI, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Council now holds the regular meeting of 13 June 2018.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Food Adulteration (Metallic Contamination) (Amendment) Regulation 2018	113/2018
Protection of Endangered Species of Animals and Plants Ordinance (Amendment of Schedules 1 and 3) Order 2018.....	114/2018
Protection of Endangered Species of Animals and Plants (Exemption for Appendices II and III Species) (Amendment) Order 2018.....	115/2018
Employment (Amendment) (No. 2) Ordinance 2018 (Commencement) Notice	116/2018

Other Papers

No. 110 — Correctional Services Children's Education Trust Report by the Trustee, Financial statements and Report of the Director of Audit for the period from 1 September 2016 to 31 August 2017

No. 111 — Report of changes made to the approved Estimates of Expenditure during the fourth quarter of 2017-18
Public Finance Ordinance : Section 8

Report No. 15/17-18 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Site reserved for the second phase development of the Hong Kong Disneyland

1. **MR TONY TSE** (in Cantonese): *President, in December 1999, the Government signed an agreement with The Walt Disney Company for a joint venture to develop the Hong Kong Disneyland ("HKDL"). The Government reserved a 60-hectare site immediately to the east of HKDL for the second phase development of HKDL ("Phase 2 site"). Under the relevant Option Deed, the Hongkong International Theme Parks Limited ("HKITP"), which develops and operates HKDL, was given an option with a validity period of 20 years to buy the Phase 2 site. However, given the slow pace of HKDL's expansion in recent years, Phase 2 site has all along been left vacant. In this connection, will the Government inform this Council:*

- (1) *whether it knows the respective estimated and actual attendances of HKDL in each year from 2005, in which HKDL commenced operation, to 2017, and the estimated attendance in each year from 2018 to 2030, as well as the basis for the estimation;*
- (2) *whether it has studied ways to better utilize the vacant Phase 2 site before HKITP exercises the aforesaid option; if so, of the details and outcome, and whether it will let the site by way of short-term tenancies; if it has not studied, whether it will expeditiously conduct such a study; and*
- (3) *given that the aforesaid option, which will expire in 2020, is subject to two five-year extensions by HKITP according to the provisions in the Option Deed, of the details of the relevant provisions (including the years for using the site once the option is exercised, restrictions on uses, as well as the method and criteria for calculating the land premium); whether the Government will discuss with HKITP the early cancellation of the option, with a view to better utilizing the site for other uses as early as possible?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, thanks Mr Tony TSE for the question. In 1999, the Government and the Walt Disney Company ("TWDC") reached an agreement to develop the Phase 1 of Hong Kong Disneyland ("HKDL") Resort at a reclaimed site of about 126 hectares at Penny's Bay, Lantau Island. Since its opening in September 2005, HKDL has been in operation for nearly 13 years. It is a major component of the tourism infrastructure in Hong Kong and one of the most popular tourist attractions for both local and non-local visitors. It also helps consolidate our position as an international premier tourist destination.

In its first 12 years of operation, HKDL received over 70 million guests. Their additional spending in Hong Kong was around \$166.2 billion, which generated total value-added of \$90.9 billion for Hong Kong's economy, equivalent to 0.35% of Hong Kong's Gross Domestic Product. HKDL also created a total of 232 500 jobs for Hong Kong's economy over the same period, providing many job opportunities for frontline workers and Hong Kong's tourism industry.

Over the years, HKDL has been strengthening its appeal to visitors through sustained efforts to enrich its attractions and entertainment offerings. Apart from the new ride Iron Man Experience and the new hotel Disney Explorers Lodge launched last year, HKDL has been actively taking forward its expansion and development plan since the second half of last year and various newly built attractions would be launched progressively from this year to 2023.

My reply to the three parts of the question raised by Mr TSE is as follows:

- (1) As mentioned above, HKDL received over 70 million guests in its first 12 years of operation, which exceeded the Government's relevant estimation for the same operating period made in 2009 when considering HKDL's expansion with three new themed areas, i.e. 59 million. HKDL's actual annual attendance from its opening to fiscal year 2017 is at Annex. In gist, HKDL's attendance had been increasing during the first nine years after its opening, reached the highest in 2014, dropped in 2015 and 2016, and picked up in 2017.

Looking ahead, taking into account the relevant attendance data of HKDL's operation and after its expansion in the past, it is estimated that HKDL's attendance, with the progressive launch of new

attractions under the expansion and development plan and the overall improvement in the tourism industry, would regain growth momentum. We estimate and hope that HKDL's attendance would be 9.1 million to 9.3 million in fiscal year 2030.

(2) and (3)

When the development of HKDL was finalized in 1999, the Government, considering the future expansion and development of the resort, agreed to reserve a reclaimed site of around 60 hectares to the east of HKDL for its possible Phase 2 development ("the Phase 2 site").

According to the Option Deed signed in 2000 between the Government and the Hongkong International Theme Parks Limited (i.e. the joint venture with the Government and TWDC as shareholders, "the joint venture"), the joint venture has an Option to purchase the Phase 2 site for taking forward HKDL's further development. Such option is valid for 20 years until 2020 and may, in accordance with the Option Deed, be extended twice, each for five years. During the validity period of the Option, if the joint venture purchases the Phase 2 site in accordance with the Option Deed, the land premium, as per the Deed, would be based on the amount of \$2.812 billion at 1999 prices which would be adjusted for inflation between 1999 and the time of purchase in line with the Composite Consumer Price Index. Considering that the Phase 2 development is one of the proposals for HKDL's overall development in future, the Government and TWDC as shareholders of the joint venture would review the development situation as appropriate. At this stage, we have no intention to change the original arrangements.

The Government understands the concerns of this Council and the general public about better utilization of land. Thus, the Government explores and considers from time to time whether the Phase 2 site can be put to compatible use(s) that would better utilize the site and, at the same time, benefit the tourism industry or the community.

Before the joint venture exercises the Option, the Phase 2 site can currently be used for various short-term uses as listed in the Deed of Restrictive Covenant, including recreational, sports and cultural facilities, etc. When considering these short-term uses, we also need to take into account whether such uses are compatible with the use and atmosphere of HKDL. In fact, the Phase 2 site was used for hosting some short-term activities in the past, such as sports activities and group events. Recently, we have also received some proposals, and are exploring and discussing with the relevant parties. When there is progress and at an appropriate juncture, we would finalize them and make an announcement. We will continue to actively pursue the better utilization of the Phase 2 site to further exploiting the recreation, entertainment and tourism positioning in the vicinity of HKDL. This would be conducive to HKDL's ongoing development, Hong Kong's tourism industry and overall economy.

Annex

Actual attendance of Hong Kong Disneyland

<i>Fiscal Year</i> *	2006	2007	2008	2009	2010	2011
Attendance (million)	over 5.0	over 4.0	4.5	4.6	5.2	5.9

<i>Fiscal Year</i> *	2012	2013	2014	2015	2016	2017
Attendance (million)	6.7	7.4	7.5	6.8	6.1	6.2

Note:

- * The fiscal year of HKDL is generally a 52-week or 53-week period from October of the previous year to September of the year, with the Saturday closest to 30 September as the last day of the fiscal year.

MR TONY TSE (in Cantonese): *President, I am very disappointed with the Government's reply. The three parts of the main question are actually very simple, but the Government has not answered part (1) of the main question, that is, the estimated attendance in each year from 2018 to 2030. In the main reply, the Secretary has merely provided the estimated attendance in 2030. Does it*

mean that the Government can only provide the estimated figure for 2030 but not those for the next few years? How did the Secretary arrive at the figure? President, I have already raised the main question, so the Secretary should answer it in the main reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, thanks Mr TSE for the supplementary question. Firstly, I already accounted for the situation in the past few years just now. Secondly, my reply was given having regard to the question raised by Mr TSE with regard to the figure in 2030 and according to the target set by the Government in the past. However, due to the Phase 1 expansion works and the approval of new funding by the Legislative Council in May last year for the expansion and development project, these two expansion and development projects will surely bring changes to the estimated attendance of HKDL. Therefore, we have adjusted the estimated attendances for HKDL in the next few years.

MR ANDREW WAN (in Cantonese): *President, the Government mentioned in the main reply that it was exploring the uses of the Phase 2 site of HKDL for recreational, sports and cultural facilities without mentioning housing. Given that the Government is now making an vigorous effort in taking forward transitional housing, including prefabricated houses, will the Government put its own proposal into implementation and consider using this site for the construction of prefabricated houses?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks Mr TSE for the supplementary question. Firstly, this site, which is reserved for possibly the Phase 2 development of HKDL, is subject to certain use restrictions. Its future uses must be compatible with the uses of the Phase 1 site. The relevant uses are already set out in the main reply, and this site will be developed in accordance with such uses. As regards whether the use of the site will go beyond this scope for such purposes as housing development, we do not have any plan to do so for the time being. On the contrary, we hope short-term development in compliance with the use restrictions can be carried out expeditiously on the Phase 2 site, with a view to better utilizing the site. I believe this is also the focus of the question asked by the Honourable Member.

MR CHAN CHI-CHUEN (in Cantonese): *President, the Secretary has actually not answered part (2) of the main question about ways to better utilize the vacant Phase 2 site. In the main reply, the Secretary pointed out that the Government "explores and considers from time to time whether the Phase 2 site can be put to compatible use(s)". In other words, the Government has merely been exploring without any answers.*

I would like to tell the Secretary that Mayday, a Taiwanese band, achieved an unprecedented success in holding concerts in HKDL last month. They had originally reserved the Hong Kong Coliseum but then they would rather forfeit their deposits to have the concerts held in HKDL because the Hong Kong Coliseum could not house their stage. Mayday held six concerts in total, with the attendance in each concert exceeding 20 000. I watched two of these concerts and found that very good arrangements were made in terms of logistics, admission, shopping and the transport and order of concertgoers at the end of the concert. I believe the concert can bring huge visitor flows even in the daytime. Even though HKDL is now occupying this site which can accommodate tens of thousands of people, it can still be vacated for holding a concert over a period of more than 10 days. In other words, this vacant site is not put to optimal use on usual days. My question is related to the Phase 2 site. In my opinion, the site should most preferably be used to stage such events as the detachable exhibitions or performance installations held at the waterfront in Central ...

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, please ask your supplementary question immediately.

MR CHAN CHI-CHUEN (in Cantonese): *... will the Government consider using this vacant site to stage large-scale performances or exhibitions by way of short-term tenancies or following the example at the waterfront in Central?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks Mr CHAN for the supplementary question. In general, I approve of the suggestion of better utilizing the site on the premise that it is compatible with its land use. First of all, after completion of reclamation of the Phase 2 site in 2009, the Government conducted an extensive consultation to examine if anyone would put forward any views on the short-term use of the site.

After completion of the consultation, however, the Government did not receive any proposal. As such, I consider that the circumstances may vary at different times. I agree with the remark made by Mr CHAN just now, that different groups or commercial organizations have recently expressed interest in using the Phase 2 site. Over the past year, we have discussed this issue with parties considered to stand a chance of using the site. As I mentioned in the main reply, we are now discussing with more than one party and exploring ways to use the Phase 2 site on the premise that it is compatible with the restrictions on land use. We will take the suggestion mentioned by Mr CHAN just now into consideration, too.

MR YIU SI-WING (in Cantonese): *President, the Government and HKDL have recently jointly contributed \$10.9 billion to undertaking the Phase 1 expansion and development project till 2023. Looking at it from another angle, the joint venture will not work out a solution for the Phase 2 site before 2023, which is considered by me unsatisfactory. It is simply too long if consideration will be given only when the agreement expires in 2030. According to the terms of the Deed of the joint venture, I wonder if there are other ways to resume the right to use the Phase 2 site to enable it to be fully utilized or request HKITP to come up with a timetable for developing the Phase 2 site to prevent the public from thinking that the development plan has all along been delayed?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, thanks Mr YIU for the supplementary question. Before all else, I have to clarify that one of the points made by Mr YIU Si-wing just now is inaccurate insofar as statement of the facts is concerned. Actually, the Phase 2 site is currently not in the hand of the joint venture. According to the relevant Deed, the joint venture can only exercise the option before 2020 and is given two chances to extend the Option twice, each for five years. Currently, we will consider appropriate proposals for using the Phase 2 site by way of short-term tenancies. In my reply to the supplementary question asked by CHAN Chi-chuen just now, I also mentioned that a consultation had been conducted after completion of the reclamation works in 2009. The Government is now exploring with some parties—before confirming whether expansion works will be undertaken for HKDL on the Phase 2 site—the chances of using the site. Unfortunately, I cannot divulge the specific details today as something is still under discussion, and I have to respect the relevant parties. I believe this is

precisely related to the question raised by Mr YIU Si-wing about whether the site can be designated for short-term use during this period. By short-term use I mean the use of the site before the development of the Phase 2 site has yet been confirmed, not once, or half a time, or over a period of several months.

MR KENNETH LAU (in Cantonese): *President, my supplementary question and the question raised by Mr YIU Si-wing are very much alike in the sense that they are related to the terms of use of the Phase 2 site. I know that HKDL must meet the requirements of the terms, such as satisfactory business performance, before its project can be taken forward. Will the Government inform this Council whether it has taken a more proactive role in discussing with HKITP long-term development plans, such as developing additional attractions to boost attendance, while informing the public of the direction of the future development of HKDL; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, thanks Mr LAU for the supplementary question. Actually, progress has been made in cooperation between HKDL and the Government over the past several years. For instance, the Phase 1 expansion works of HKDL were commenced in 2009. In May last year, subsequent to the granting by the Legislative Council of more than \$5 billion to the Government for investment, HKDL will progressively complete the expansion and development works in phases to develop—if my memory has not failed me—six additional attractions, and new attractions will be launched successively during the period from now till 2023. Hence, regarding the supplementary question raised by Mr LAU, the existing Phase 1 site will be used for undertaking such works. As for the Phase 2 site, according to the land reservation mechanism prescribed in the preliminary agreement, for instance, if the attendances of HKDL reach certain figures during the period from 2023 to 2025, the joint venture may propose extending the validity period of the Option for the second time. It may also exercise the option during the validity period of the Option. In my opinion, we may look at the matter from two aspects. On the one hand, we have to examine the feasibility of long-term development of the Phase 2 site, which I believe hinges on the prospect of the overall development of tourism. On the other hand, it hinges on whether or not the expansion works to be undertaken with the funding just granted can boost the attendances in the next few years. I believe these two aspects have to be taken into consideration. As regards the latter, we

can at least see that the relevant figure began to pick up in 2017. Coupled with the development of new attractions in HKDL in the next few years, we are confident in seeing an upturn in the future. We will explore this matter in the same direction, too.

MS ALICE MAK (in Cantonese): *President, I would like to raise a similar question. As land is so precious in Hong Kong, some non-governmental organizations are carrying out programmes to build prefabricated houses, but the development of these houses is confined to a small scale. If the site is available, will the Government be willing to discuss with HKITP the feasibility of better utilizing the site before the expiry of the agreement to provide transitional housing such as prefabricated houses?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks Ms MAK for the supplementary question. Firstly, if the Phase 2 site is used for housing construction, in particular on a long-term basis, the original use of the site will be violated. Secondly, regarding the question asked by Ms MAK just now as to whether the site can be better utilized in the short run, we are actually heading in the same direction. In my reply to the question just now, I also sought to explain it further in this direction.

MR AU NOK-HIN (in Cantonese): *HKDL now faces a very big problem as a continued effort is being made to develop hotels but not HKDL. Insofar as monitoring is concerned, actually the Government has a stake in HKITP but not the Hong Kong Disneyland Management Limited. I disagree with the Government which keeps saying that the problem can be monitored through the setting up of committees. Should we fail to resolve the monitoring problem, income and expenditure will only incur losses continually in the future. I hope the Bureau can make a response.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks Mr AU for the supplementary question. Firstly, since the Government has a stake in the joint venture, we on behalf of the Government will play the role of an operator in the Board of the joint venture. Moreover, due to the input of resources by the Government and taxpayers, we will perform

monitoring on half of Hong Kong people as well. Members can also see that we present a report on the operation of HKDL at least once a year to give an account to Honourable Members. I also noted in the past that Members gave a lot of advice on the operation of HKDL. We will definitely continue to make an effort in this direction.

I will be pleased to listen to Members' advice should Members still have other suggestions on the operation of HKDL and how this tourism infrastructure can bring better benefits to society.

MR MICHAEL TIEN (in Cantonese): *President, I think I made the best endeavour when HKDL applied for funding to carry out its expansion works last time as I was the only pro-establishment Member who cast a negative vote. I still take this matter to heart and cannot forget this unequal treaty. Over the past eight years, HKDL recorded a loss of \$900 million to \$1 billion, with an additional \$3.4 billion siphoned off by the headquarters in the United States. Someone has once suggested that the site be resumed for the construction of buildings or a golf course. But in my opinion, doing so is tantamount to disabling HKDL and curtailing its power, which would enable Shanghai and Tokyo to marginalize it, thereby leaving it to run its own course. Actually, I hope HKDL can continue to develop but the unequal treaty must be amended.*

May I ask the Secretary should HKDL carry out development on the Phase 2 site, can the unequal treaty signed in connection with the Phase 1 site be amended or it can never be amended? If it is the latter, will the Government exploit its joint venture stake to vote against the bid by HKDL to extend the Option Deed so that the Government can resume the site with no more delay?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks Mr TIEN for the supplementary question. Although I had yet taken up this post as the Secretary when the funding for the expansion and development plan for HKDL was discussed in the Legislative Council, I understood Members' concern about this issue through the television broadcast. Insofar as the development of HKDL as a whole is concerned, some terms and conditions have been signed regarding land use. We can see that regarding the two expansion and development works projects implemented by HKDL, whenever the Government signed a new agreement with TWDC, some of the terms and conditions on cooperation were amended.

Insofar as the present stage is concerned, it is indeed too early to discuss the development of the Phase 2 site. As I pointed out just now, the funding for the expansion and development plan was only approved in May last year to enable the plan to be completed progressively by 2023. I do not wish to say "yes" or "no" to avoid giving Members a wrong impression. When carrying out development in HKDL in the past, the Government would, in so far as practicable, discuss afresh some terms and conditions on cooperation between the two parties. According to past experience, certain terms and conditions will be amended.

MR MICHAEL TIEN (in Cantonese): *During the renewal of the Phase 2 site, can discussions be made on the Phase 1 site afresh ...*

PRESIDENT (in Cantonese): Mr Michael TIEN, you have already pointed out the part of your supplementary question not answered. Secretary, do you have anything to add?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I believe my reply is very comprehensive already.

PRESIDENT (in Cantonese): Second question.

Influence of offices set up in Hong Kong by departments of the Central People's Government

2. **MR GARY FAN** (in Cantonese): *It has been reported that two companies under Guangdong Xin Wenhua, which is a company wholly owned by the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("LOCPG"), have full control of three major bookstore chains, namely Joint Publishing (H.K.), Chung Hwa Book Co. and The Commercial Press, as well as a number of publishers and publications distributors in Hong Kong, with a market share as high as 80%. In this connection, will the Government inform this Council:*

- (1) *as Article 22 of the Basic Law ("BL") stipulates that "[no] department of the Central People's Government ... may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law", whether the Government has assessed if LOCPG-owned companies' conducting business in Hong Kong and impacting on the environment of the local publishing industry have constituted a violation of that provision; if it has assessed, of the outcome;*

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

- (2) *given that the three major bookstore chains indirectly held by LOCPG have dominated Hong Kong's publication market (especially in the business area of publishing teaching materials and children's educational books) and those chains have refused to sell in their bookstores books relating to the Umbrella Movement, democratic movements and the relevant subjects, whether the Government has assessed if the freedom of publication enjoyed by Hong Kong residents under Article 27 of BL has been undermined by the aforesaid situation; and*
- (3) *whether the Government will discuss with the Central People's Government if it is necessary to draw up criteria for regulating the conducting of business in Hong Kong by the offices set up in Hong Kong by the Central Government and companies under them?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, having consulted the Department of Justice, our consolidated reply to Mr Gary FAN's question is as follows:

According to Article 12 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the "Basic Law"), the Hong Kong Special Administrative Region ("HKSAR") shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government. Article 2 of the Basic Law stipulates that the National People's Congress

authorizes the HKSAR to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of the Basic Law.

At the same time, Article 22 of the Basic Law stipulates that no department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the HKSAR administers on its own in accordance with the Basic Law. If there is a need for departments of the Central Government, or for provinces, autonomous regions, or municipalities directly under the Central Government to set up offices in the HKSAR, they must obtain the consent of the government of the Region and the approval of the Central People's Government. All offices set up in the HKSAR by departments of the Central Government, or by provinces, autonomous regions, or municipalities directly under the Central Government, and the personnel of these offices shall abide by the laws of the Region.

Currently, the Central Government has set up three institutions in HKSAR, including the Liaison Office of the Central People's Government in the HKSAR ("LOCPG"), the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR ("OCMFA"), and the Hong Kong Garrison of the Chinese People's Liberation Army ("the Garrison"). Since the establishment of HKSAR, the HKSAR Government and the offices set up by the Central People's Government in HKSAR have been acting in strict accordance with the basic policies of "one country, two systems", "Hong Kong people administering Hong Kong" and a high degree of autonomy, as well as complying with the provisions of the Basic Law in performing their respective duties.

The question refers to the functions and roles of LOCPG. As stated in its official website, LOCPG is an office set up by the Central People's Government in HKSAR. Its main functions include liaising with OCMFA and the Garrison; liaising with and assisting relevant Mainland departments to manage Chinese organizations in Hong Kong; promoting economic, educational, scientific and technological, cultural and athletic exchanges and cooperation between Hong Kong and the Mainland; liaising with various sectors of the community of Hong Kong to enhance exchanges between the Mainland and Hong Kong; and reflecting the views of Hong Kong residents on the Mainland, etc. The work of the offices set up by the Central Government in HKSAR is determined by the Central Authorities. As long as LOCPG is carrying out its work in accordance with its operation and functions and which complies with law, we will not

interfere with LOCPG's work. We believe that LOCPG will, as always, follow the laws of HKSAR in accordance with the requirement stipulated in Article 22 of the Basic Law.

Regarding the LOCPG's ownership of bookstores and publishing companies, and being a publications distributor, as far as I understand it, the Joint Publishing (H.K.), the Chung Hwa Book Co. and The Commercial Press are companies under the Sino United Publishing (Holdings) Limited, which is a local enterprise registered and operated in accordance with the laws of Hong Kong. The HKSAR Government will not interfere with any bookstore, publishing company or publications distributor which are operating in accordance with law.

Regarding the question on the freedom of publication, the HKSAR Government has always striven to protect the freedoms provided for Hong Kong residents under Article 27 of the Basic Law, including the freedom of publication. The setting up and operations of bookstores, publishing companies and publications distributors in Hong Kong by individuals or companies are purely business operations; the market share of individual bookstores, publishing companies or publications distributors is also a result of free market. I understand that there are many different ways to publish books and publications in Hong Kong. The HKSAR Government will ensure that Hong Kong is an open market for publishing activities, and will not interfere with lawful publishing of books and publications. Hong Kong is an international metropolis where East meets West. The publishing market has always been diverse, with enterprises from the Mainland, Taiwan, Europe, the United States and elsewhere, in addition to local ones. There are physical bookstores of different sizes as well as various online channels for people to purchase and read books and publications of different genres from different parts of the world through various channels at their own will. As for the mechanism of selecting books for sale by individual bookstores, it is entirely an independent act based on business considerations of each individual bookstore, and is a process which the Government will not and cannot participate in; otherwise, it will constitute interference. This is precisely what the Government is doing to uphold Article 27 of the Basic Law to protect the freedom of publication. The freedom of press, of speech and of publication, etc. are important elements in maintaining Hong Kong's position as an international metropolis. The HKSAR Government will definitely continue to protect these important rights.

MR GARY FAN (in Cantonese): *Deputy President, the Secretary and the Government are turning a blind eye to the problem and burying their heads in the sand. They have not answered the question I put forth in part (2) of my main question, particularly the part relating to Article 27 of the Basic Law. The authorities may refer to the relevant empirical and explicit evidence. In August 2017, WONG Kwok-kui, Associate Professor of the Hong Kong Baptist University, wrote the preface for a book on philosophy. As he mentioned the "Umbrella Revolution" and "corrupted politics" in the preface, the publisher—The Commercial Press—requested him to amend the preface, but since he refused, his article was withdrawn from the book.*

After the Umbrella Movement in 2014, the publisher "上書局" (meaning "going to the bookstore") which publishes many political books experienced a bulk return of their books, which amounted to 90% of the books published. Deputy President, these cases are proof of LOCPG's influence in the publishing industry in Hong Kong. Why has the Government not seen it? Why does the Government pretend it has not seen it? Should the Government respond to the issue appropriately?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, as regards Mr FAN's question, first, when we comment on an issue, we should look at the objective circumstances and facts.

First, according to the Basic Law, institutions of the Central Authorities set up in Hong Kong should comply with the laws of Hong Kong and perform the respective duties assigned by the Central Authorities. This is in compliance with the requirements of the Basic Law.

Second, the relevant bookstores mentioned by the Member are local enterprises, business operations registered in accordance with the laws of Hong Kong and the relevant procedures. I trust the Member would agree that business operations are business operations. As for specific cases concerning whether or not a book or certain books and articles, may be published, indeed, I think it will be interference if the decision is to be made by us.

Third, in actuality or from an objective perspective, we see that the publishing market in Hong Kong, be it newspapers and magazines or books, is diverse. As for bookstores, other than the several bookstores mentioned by the

Member, there are also bookstores from different regions. Those immediately come to my mind are bookstores from Taiwan, Singapore, Hong Kong and the United Kingdom.

I often visit book shops. I notice that a wide variety of books are available at book shops. This is the objective reality which is obvious to all. Hence, in making comments or criticisms on certain issues, I hope we can be objective and fair.

MR GARY FAN (in Cantonese): *... the Secretary has not answered my question, as this is blatant political censorship, censorship of speech ...*

DEPUTY PRESIDENT (in Cantonese): Mr Gary FAN, please stop speaking. You have already pointed out which part of your supplementary question has not been answered. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I have already given a detailed answer to the Member's supplementary question. Thank you.

MR VINCENT CHENG (in Cantonese): *Deputy President, I believe the freedom of publication protected under the Basic Law is amply protected by the existing laws in Hong Kong. At issue is that we should not see things through tinted glasses, nor should we take part for a whole by presenting only part of the facts, thereby affecting public confidence in the freedom of publication in Hong Kong.*

Deputy President, if there are cases of the so-called "control by a certain institution" or "monopolization of the publishing industry", adequate regulation has been put in place under the existing Competition Ordinance. May I ask the Secretary whether the authorities or the Competition Commission ("the Commission") have received any complaints about the relevant situations and whether investigations have been conducted accordingly so far?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): I thank Mr CHENG for his question.

In fact, we have the Competition Ordinance and the Commission in Hong Kong. The conduct rule under the Competition Ordinance seeks to regulate the conduct of market participants. As to individual cases involving the so-called "anti-competition", a case is substantiated not merely by verbal claims but proof of evidence. The Commission must conduct appropriate investigations before it comes to a conclusion. To my understanding, I have not heard of allegations in this aspect. I have to point out that when we accuse a certain consortium of monopolizing the market, we have to give regard to the objective situation. As I mentioned just now, the publishing market in Hong Kong has always been diverse. Apart from local enterprises, there are also enterprises from the Mainland, Taiwan, Europe, the United States and Hong Kong, and so on, and physical bookstores of varied scales are found in the market. Moreover, Members should have noticed that a lot of online channels for purchasing books have emerged in recent years. In fact, the public may purchase or read books and publications of different genres from different parts of the world through various channels. I think this is a clear fact.

MR WONG TING-KWONG (in Cantonese): *Some people are using the phrase "it has been reported" to parrot others' comments and spread rumours. Yet, I have seen in person that the book "我不是細路" (meaning "I am not a child") written by Joshua WONG put on sale at Joint Publishing (H.K.) bookstores. Moreover, I know that Mr KWONG Chun-yu who is in the Chamber has also held new book release and book signing events in the three bookstores mentioned. Hence, I think currently there are adequate laws in Hong Kong to protect the freedom of publication protected under the Basic Law. The point is that people should not see things through tinted glasses, take a part for the whole and telling part of the story but avoiding the other parts. May I ask the Government how it will protect the publishing sector and publishing companies, so that they can enjoy the freedom of publication and editorial autonomy, as well as operating on commercial principles, and not be attacked and affected by these biased political stances?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): I thank Mr WONG for his supplementary question. The HKSAR Government attaches great importance to the protection of freedom of publication. First, we are provided with freedom in this aspect under Article 27 of the Basic Law, including the freedom of publication, and we always attach great importance to its implementation. Second, regarding publishing, the Hong Kong market is basically diverse and operates according to market force. We can see that the supply and publication is diverse. Third, in general, the setting up and operations of physical and online bookstores in Hong Kong are largely free from restrictions, for operators are merely required to apply for business registration. Moreover, there are many channels for publishing books and publications. Everyone is free to write and issue books. In Hong Kong, the printing, production or publishing of books are subject to the requirements under the Books Registration Ordinance only, which require the delivery of copies of books to the Books Registration Office of the Government. This registration does not involve any examination or approval, for it is done merely for the purpose of culture preservation. I think this fact is crystal clear.

Moreover, the Sino United Publishing now under discussion has a long history, for it is an integrated publishing consortium formed in 1988. For The Commercial Press, its branch was set up in 1914, whereas the Hong Kong branch of Chung Hwa Book Co. was set up in 1927. As for the Joint Publishing (H.K.), it was formed by the merger of several book companies in 1948. These bookstores have been carrying on commercial operation in the publishing market in Hong Kong all along. They have a long history and are known to the people of Hong Kong. Hence, I think it is necessary to present these objective facts to let the public pass a fair judgment on the issue.

In fact, Deputy President, Mr WONG, I do not worry that the public will be short of books and I am concerned more about them not reading books. It is important to develop a good reading culture in the community, which I think will also be conducive to the development of the publishing market. Hence, the HKSAR Government endeavours to promote reading. In this financial year, the Education Bureau has provided a recurrent allowance on reading promotion. Moreover, in this Budget, \$200 million is allocated to public libraries in Hong Kong to promote reading among children and parents. Therefore, the most practical approach is to promote reading together.

MR LAU KWOK-FAN (in Cantonese): *Hong Kong is a free society for business operation. I believe the freedom of publication is amply protected under the existing laws, and it is purely a commercial decision whether or not certain books will be published. Business is business. In fact, the present question is biased in several aspects. After the Occupy movement, I have seen in person that a number of books relating to the illegal charging, such as "每一把傘" (meaning "Every umbrella"), "被時代選中的我們" (meaning "We are chosen in this era") and "傘聚" (meaning "A gathering of umbrellas"), are available for sale in the bookstores of the Joint Publishing (H.K.), the Chung Hwa Book Co. and The Commercial Press. I wonder if doing business in Hong Kong nowadays will be subject to screening in terms of make-up and background. Should we be haunted by the white terror of politics? May I ask the Secretary whether different political groups or people with different political ideas and background will be restricted from doing business in Hong Kong now?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, thank you Mr LAU. Hong Kong is a free market. Regarding the operation of various industries, the Government basically adopts the minimum regulation approach. As for the publishing sector, as I said earlier, basically, operators are only required to apply for business registration, and there are not many requirements in law. In fact, we notice that under the market-based operation, all bookstores or publications are diverse.

As for the mechanism of selecting books for sale by individual bookstores, it is the operation decision of the bookstores based on business consideration. I believe other industries will also have similar cases. We can see this, too.

Hence, in a nutshell, we will make continuous efforts to protect the freedom of publication. As for the role of regulation, the Government will only impose essential regulation. If any person perceives certain actions from a political perspective, I think he will come up with some views detached from the facts no matter which side he takes. Hence, we should be careful when we comment on the incidents.

MS CLAUDIA MO (in Cantonese): *Honestly, in the 1990s, I once also held a book signing event at the Chung Hwa Book Co. Yet, Hong Kong is different today. The Government is a hypocrite. On the pretext of free market, it is introducing red capital to capture and occupy Hong Kong. Mainland capital is*

backed by the State coffers, and the signboard of LOCPG is obviously a signage of power. As LOCPG now owns cultural businesses, it is making money and it contravenes the Basic Law. It also means that it is doing brainwashing, cleansing the ideologies of Hong Kong ...

DEPUTY PRESIDENT (in Cantonese): Ms MO, please state your supplementary question as soon as possible.

MS CLAUDIA MO (in Cantonese): *I request the Secretary to clarify whether he will allow the situation to continue and consider that we can put up with this. Secretary, are you really going to turn a blind eye to this? Do not quail.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, regarding the supplementary question and comments of Ms MO, I beg to disagree. In the main reply, I have stated clearly that the bookstore mentioned in the question has a long history in Hong Kong, which has been consolidated into an integrated publication consortium in 1988. Regarding the capital background of enterprises, the business market is open in Hong Kong, yet if judgment is to be made from this perspective and developed to criticisms of all kinds, I think this is untrue and unfair.

MS CLAUDIA MO (in Cantonese): *They should not be carrying on businesses.*

DEPUTY PRESIDENT (in Cantonese): Ms Claudia MO, please stop speaking. You can only state which part of your supplementary question has not been answered.

MR STEVEN HO (in Cantonese): *Deputy President, The Commercial Press has been established for 104 years since the end of the Qing Dynasty, whereas the Chung Hwa Book Co. which gained its reputation through the compilation of Chinese ancient literature has a history of 91 years. As for the Joint Publishing (H.K.) mentioned by the Secretary just now, it was a merger of three Mainland bookstores and has been established for 70 years.*

Ms Claudia MO made particular mention earlier that LOCPG or certain Mainland institutions are manipulating the publishing businesses in Hong Kong. The Secretary mentioned in the last paragraph of the main reply that the freedom of publication is relatively open in Hong Kong. I agree that we have much freedom. However, in the couple of elections held in Hong Kong recently, we noticed that certain newspapers had taken advantage of the freedom of publication. They had even gone to the extent of abusing the freedom of publication on the day of election by distributing free Extras to help certain candidates. They make tactful presentations to report the election status to appeal for support for certain candidates, including Ms Claudia MO who has just spoken. Has the political ecology of Hong Kong been affected by this kind of freedom of publication? Deputy President, in comparison with the phenomenon concerning the bookstores and newspapers mentioned earlier, which scenario is more of a concern?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I thank the Honourable Member for his supplementary question. Actually, first, Hong Kong is a free and open market. The Government adopts the minimum regulation approach and will only impose essential regulation. Yet, at the same time, the development of various industries relies on the professional standard or conduct of the industry in some measure. Hence, in the event of specific incidents, people will be caused to form different views. I think we cannot arbitrarily deduce that there are all kinds of conspiracy or purposes behind certain actions merely based on the capital background of a company or other facts. Objectively speaking, the publishing industry in Hong Kong is diverse, and the public may have access to books and publications of different genres from different parts of the world through various channels.

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

MR STEVEN HO (in Cantonese): *My question is about certain newspapers taking advantage of the freedom of publication to interfere in elections, particularly concerning the publication of Extras on the polling day. What is the view of the Secretary on this issue?*

DEPUTY PRESIDENT (in Cantonese): Mr HO, you have pointed out clearly which part of your supplementary question has not been answered. Please be seated. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I already answered it just now. I mean to point out that when the industry enjoys the freedom of publication, it is necessary for the industry to maintain its professional standard and conduct, which relies on the efforts of the industry. Certainly, when the issue develops to a certain point, it may be necessary for the Government to impose regulation. Yet, as I mentioned earlier, under the operation of a free market, the Government hopes to exercise minimal regulation. This is the principle applied.

DEPUTY PRESIDENT (in Cantonese): Third question. Mr HUI Chi-fung.

(Mr CHU Hoi-dick stood up)

DEPUTY PRESIDENT (in Cantonese): Mr HUI Chi-fung, please hold on. Mr CHU Hoi-dick, do you have a point of order?

MR CHU HOI-DICK (in Cantonese): *Deputy President, I request a headcount.*

DEPUTY PRESIDENT (in Cantonese): Mr CHU Hoi-dick has requested a headcount.

Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber, but some Members did not return to their seats)

DEPUTY PRESIDENT (in Cantonese): A quorum is present in the Chamber. Will Members please return to their seats. The meeting will now continue. Third question. Mr HUI Chi-fung.

Measures to improve the pedestrian and street environment

3. **MR HUI CHI-FUNG** (in Cantonese): *Deputy President, in order to improve the pedestrian environment, the Transport Department ("TD") has set up pedestrian precincts in a number of districts since 2000. In recent years, some researchers and planners have proposed to set up a pedestrian and tram precinct or an open space in a section of Des Voeux Road Central. Meanwhile, some members of the public have criticized the government departments concerned for the unclear delineation of powers and responsibilities in managing pedestrian precincts, which has given rise to environmental hygiene and noise problems in some pedestrian precincts, such as the Mong Kok Pedestrian Precinct. Regarding measures to improve the pedestrian and street environment, will the Government inform this Council:*

- (1) *whether the Transport and Housing Bureau ("THB") can coordinate the efforts of the Development Bureau, TD, Highways Department and the Police to enhance the management of pedestrian precincts, so as to avoid the bureaux/departments each administering its own way or the emergence of a situation that "comes within nobody's jurisdiction";*
- (2) *given the commissioning of both the MTR Shatin to Central Link and the Central-Wan Chai Bypass as well as the implementation of the Electronic Road Pricing Pilot Scheme in Central and its adjacent areas in the next two to three years, whether THB will, in the light of those new situations, commence a feasibility study on setting up a pedestrian and tram precinct in a section of Des Voeux Road Central; and*
- (3) *given that the Transport for London of the United Kingdom has launched the Transport Strategy of Healthy Streets Approach, under which elements will be incorporated into pedestrian precincts to cope with climate change, reduce carbon emission, encourage walking and improve public health, whether THB can break out of the established policy framework to implement a long-term policy on healthy streets with an audaciously innovative attitude?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, the Government has been striving to create a pedestrian-friendly environment. We have introduced a host of measures over the years to foster Hong Kong as a walkable city. As announced in The Chief Executive's 2017 Policy Address last October, the Government will continue to take forward "Walk in HK" by launching a series of measures to encourage citizens to walk more. Our policy objective is to enhance the overall walkability of our city to facilitate citizens to commute, connect and enjoy, making walking an integral element of Hong Kong's sustainable development.

My consolidated reply to the various parts of Mr HUI Chi-fung's question is as follows:

- (1) Since 2000, the Transport Department ("TD") has progressively implemented pedestrian environment improvement schemes in Causeway Bay, Central, Wan Chai, Mong Kok, Tsim Sha Tsui, Jordan, Sham Shui Po, Stanley, Yuen Long and Shek Wu Hui. Under the schemes, full-time or part-time pedestrian streets (commonly known as "pedestrian precincts") are implemented to improve pedestrian environment. Relevant government departments regulate the activities and conditions of these pedestrian precincts in accordance with the respective powers conferred on them by the law. For instance, TD is responsible for formulating suitable traffic management measures with regard to the pedestrian and vehicular traffic of the relevant streets; the Police are responsible for maintaining public safety and public order, and deploying staff to the scene upon receipt of noise complaints concerning pedestrian precincts; the Food and Environmental Hygiene Department is responsible for handling issues related to environmental hygiene, street cleansing, hawking activities, etc.; the Home Affairs Department conveys the views of local residents and the District Councils, and coordinates the joint efforts of relevant departments in addressing the issues concerned. Various departments have been maintaining close collaboration, and jointly manage, regulate and monitor pedestrian precincts.
- (2) TD has been monitoring the traffic situation in Central and its vicinity, including Des Voeux Road Central. It will also pay close attention to the traffic situation after the commissioning of the Central-Wan Chai Bypass and the cross-harbour section of the MTR

Shatin to Central Link, including the changes in routes, frequencies and patronage of public transport services. Furthermore, TD is conducting a feasibility study on the Electronic Road Pricing Pilot Scheme in Central and will map out the details and implementation strategy in due course for public consultation. The Pilot Scheme will further improve the traffic situations in Central and its vicinity.

With regard to the creation of a pedestrian-friendly environment, the Government welcomes proposals from all sectors to improve the walking environment. When considering various proposals, the Government will take into account the demands of the local community and businesses, local characteristics, street management and impact on traffic.

In the past, some organizations proposed to set up a pedestrian and tram precinct in Des Voeux Road Central. Some community organizations filed an application in 2015 under the Town Planning Ordinance requesting to rezone Des Voeux Road Central as a pedestrian and tram precinct. The proposal had implications on the traffic and public transport of the nearby road sections, demand for loading/unloading of goods and passengers, operation of emergency access and traffic arrangements during redevelopment or maintenance of buildings, etc. Relevant departments provided views to the Town Planning Board under their respective purviews. The organizations concerned withdrew the rezoning request in 2016. Should there be other feasible study or proposal in future regarding the setting up of a pedestrian and tram precinct in Des Voeux Road Central, relevant departments are prepared to provide views.

- (3) As mentioned above, the Transport and Housing Bureau and TD are actively taking forward the "Walk in HK" policy to enhance the overall walkability of Hong Kong. This is not only a transport policy, but also an integral part of the Government's various policies to tackle climate change, encourage a healthy lifestyle, strengthen community interaction and build an age-friendly environment. We are also aware of the Healthy Streets Approach launched by the Transport for London to encourage the public to reduce the use of private cars and to walk, cycle and use public transport more as the major means of commuting. The Healthy Streets Approach is in line with the "Walk in HK" policy in many ways.

We will continue to adopt a comprehensive strategy by consolidating past efforts to foster a pedestrian-friendly environment. We encourage the public to walk more and reduce the use of mechanized transport for short-distance commuting. This will help alleviate traffic congestion, improve air quality and enhance public health. Specific measures include: (i) "Make it smart" by providing user-friendly information, for which we enable citizens to use the TD's "Hong Kong eTransport" mobile application for planning and searching for the best walking routes; (ii) "Make it connected" by enhancing our pedestrian networks, for which we are currently exploring ways to enhance connectivity between Wan Chai and Sheung Wan; (iii) "Make it enjoyable" by making walking a pleasant experience, for which we will continue to provide covers on certain walkways connecting to public transport facilities; and (iv) "Make it safe" by providing a safe and quality pedestrian environment, for which we will review and update existing planning standards and design in relation to pedestrian environment and facilities.

MR HUI CHI-FUNG (in Cantonese): *Deputy President, the Government says in the main reply that it wishes to foster Hong Kong as a walkable city but I think the Government is just paying lip service. Let us look at Des Voeux Road Central. There are roads but they are clogged with traffic; there are pavements but pedestrians are forced to inhale the fumes emitted by heavy traffic. In fact, the public find walking in Hong Kong's city centre very hard going, so in what way is it walkable?*

In view of this, may I ask the Secretary if he is willing to take the initiative to create some urban space, so that buses and private cars will have to be parked farther away and the public can be encouraged to walk to the city centre, thus turning Des Voeux Road Central into a comfortable and quiet public walking space with trees, benches and fresh air? Instead of leaving it to community organizations to undertake this task, can the Government take the lead, so that we can really have some public space?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, I thank Mr HUI for his supplementary question. As regards a pedestrian and tram precinct on Des Voeux Road Central, or in the event that any

such proposal is put forward in the future, the stance of the Government is very clear, that is, we encourage the public to walk and reduce the use of short-distance transport by all means, so as to improve air quality, the environment and road safety.

On this project related to Des Voeux Road Central, we have to understand that more than 80 bus routes ply on Des Voeux Road Central daily and on each working day, an average of more than 120 000 people take the buses. In addition, over 50 000 tram passengers pass by or board and alight on Des Voeux Road Central. For this reason, if we close some of the traffic lanes on Des Voeux Road Central and reserve the remaining traffic lanes for trams and buses, this will impact seriously on the operation of trams and buses and will result in service delays. Moreover, we understand that many businesses operate on Des Voeux Road Central and often, the loading and unloading of goods take place there. For this reason, we adopt an open attitude to any proposal but at the same time, we also hope to look after the daily lives of members of the public and the normal operation of businesses in that area.

Concerning the situation in relation to Des Voeux Road Central mentioned by Mr HUI just now, I have also personally met with the group concerned, called "Walk DVRC", to understand their proposal and state the stance of the Government to them clearly, in the hope that if they want to put forward proposals in the future, they can consider the issues mentioned by me just now. If their proposal can address our concerns and the concerns of members of the public in that area adequately, as well as catering to the operational needs of businesses in that area, thus gaining community support, we are willing to offer advice and assistance to them.

MR WU CHI-WAI (in Cantonese): *Deputy President, the debate over a pedestrian or tram precinct has actually been going on for some time but the government replies that I have seen so far only talk about the need to take into consideration the difficulties of various stakeholders in the community.*

If this project is to be implemented at all times, of course, there will be technical problems but another policy of the Transport and Housing Bureau is to give public transport services priority in road use. May I ask the Secretary if the prescription of public transport service areas on some trunk roads will be actively considered, so as to restrict other vehicles from entering some trunk road

areas, particularly during the morning rush hours, and ameliorate the problem of traffic congestion faced by public transport services at present? Doing so may help address the need for public transport and the whole transport system can also be geared more towards according priority to public transport.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, I thank Mr WU for asking this supplementary question.

Indeed, the transport policy of Hong Kong is to encourage the use of public transport. At present, as high as 90% of the daily passengers trips made by the Hong Kong public use public transport and each day, more than 5 million members of the public take the MTR, 4 million take buses and about 2 million take minibuses. Therefore, the idea put forward by Mr WU just now is very much in line with our policy.

As regards the Member's question on whether or not public transport service areas will be prescribed in some areas, we have heard Members' views in this regard but at the same time, we have designated bus-only lanes in many places where road networks are congested and there are also views suggesting that these bus-only lanes be opened to other modes of public transport. We are considering this matter. In view of this, regarding the suggestions made by Mr WU and other people on how to improve road traffic in Hong Kong to facilitate the use of public transport by the public by all means and how to enhance the efficiency, convenience and comfort of public transport services, we will listen to them sincerely.

MR WU CHI-WAI (in Cantonese): *The Secretary did not answer my supplementary question ...*

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

MR WU CHI-WAI (in Cantonese): *... I was asking the Secretary if he would move in the direction of actively prescribing public transport service areas.*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, I thank Mr WU for his supplementary question.

I said just now that I had heard Mr WU's view clearly and would look at it on going back because the most important thing is: Any road and traffic design is underpinned by a rationale and data. We will make decisions having regard to the actual circumstances and feasibility.

DR PRISCILLA LEUNG (in Cantonese): *Deputy President, pedestrian precincts are definitely a highly desirable direction and I remember that back then, when discussing whether or not more pedestrian precincts could be designated, the overwhelming majority of people in the community expressed support.*

However, the actual experience of a pedestrian precinct in Yau Tsim Mong has greatly disappointed both local residents and District Council members, and some District Council members even think that they were deceived by the Government back then in agreeing to it. In fact, proposals on the designation of pedestrian precincts in bustling and easily accessible areas will continue to be put forward in the future. In view of this, may I ask the Secretary if they could conduct a more proper and comprehensive review of the legislation, since many law enforcement agencies said that they were unable to enforce the law and exercise regulation and as a result, the noise level remains very high?

In addition, on the identification of sites, is it advisable to put forward proposals on the designation of pedestrian precincts in areas that are so bustling and have such a high concentration of residents and businesses? Can the Government give the public a forward-looking reply or come up with a comprehensive review?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, I thank Dr LEUNG for her supplementary question.

It is true that the pedestrian precinct in Mong Kok has found itself in a rather undesirable situation and earlier on, the Yau Tsim Mong District Council had a detailed discussion on this matter and requested government departments to look into their proposal. At present, TD and relevant departments are taking follow-up actions by conducting a review of the situation that we have observed in the Mong Kok pedestrian precinct.

The situation of the Mong Kok pedestrian precinct in terms of the noise level, hygiene and traffic is indeed unsatisfactory but we believe this is mainly a matter of some street performers having conflicts with local residents when giving public performances. For this reason, we have exchanged views with the Home Affairs Bureau regarding the situation.

Concerning street performances or performances in public venues, in fact, many venues under the management of the Home Affairs Bureau can provide space for the public or performers to give performances, including the outdoor piazzas and the "Open Stage" scheme covering many venues under the management of the Leisure and Cultural Services Department. In addition, there is an outdoor performance area at the West Kowloon Cultural District, the "Fly the Flyover Operation" organized by the East Kowloon Office and as we mentioned earlier, many individual performers give performances in many pedestrian precincts.

Our attitude towards public performances is one of support because this gives the public space to give artistic performances. So long as they do not affect road safety, the living of the public and the operation of local businesses adversely, we believe they should be allowed. This is also backed by the open and tolerant culture of Hong Kong. However, if the relevant operation affects the living of the public and the operation of businesses adversely, or even causes traffic or safety problems, we have to conduct reviews. Therefore, on this subject matter, we have already established inter-departmental links and will choose the Mong Kok pedestrian precinct as the subject of examination, in the hope that better arrangements can be made in the designation and management of pedestrian precincts in the future.

MR CHU HOI-DICK (in Cantonese): *Deputy President, the Secretary said in part (3) of the main reply that the policy of the Transport and Housing Bureau is intended to tackle climate change. One of the characteristics of climate change*

is the heat island effect in urban centres. At present, there is this nullah which is lined by a lot of trees in Yuen Long. At is an important ventilation breezeway and view corridor for Yuen Long but now, the Highways Department under the Transport and Housing Bureau wants to build a 540-m footbridge at a cost of \$1.7 billion in Yuen Long. Actually, it may enable pedestrians to move quickly and smoothly but at the same time, it will also have adverse effects on the ventilation breezeway in Yuen Long and create a very strong heat island effect.

May I ask the Secretary if he would reconsider this matter and refrain from adopting designs that may give rise to one benefit but great adverse effects and instead, adopt the design suggested by the Hong Kong Institute of Architects, which makes better use of the ground level for the purpose of walking?

DEPUTY PRESIDENT (in Cantonese): Mr CHU Hoi-dick, I have to remind you that the subject matter of this question is related to pedestrian precincts and the location concerned is also specified therein but the supplementary question asked by you just now has deviated to some extent from the subject of the main question, so I will let the Secretary decide if he will answer it.

MR CHU HOI-DICK (in Cantonese): *Yes, thank you, Deputy President. I hope the Secretary can consider answering it.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Thank you, Deputy President, for your permission. Simply put, basically, we have to understand that the footbridge to be built in Yuen Long and mentioned by Mr CHU Hoi-dick just now is, firstly, the result of the views expressed by local residents and the District Council; and secondly, the Government has also taken into consideration the arrangements for the transport facilities of the district and in order to ensure road safety and pedestrian safety, as I said just now, the "Walk in Hong Kong" policy actually aims to ensure that the public can benefit from the "Make it smart", "Make it connected" and "Make it enjoyable" measures, so basically, the overall consideration centres around sustainable development, carbon reduction, and so on. We have to consider all these factors. I also understand that the relevant issues have been discussed by the relevant Panels in great detail. For this reason, perhaps I had better confine the discussion to pedestrian precincts here.

As regards the design of the footbridge in Yuen Long, it is intended mainly to tie in with the existing policy of encouraging the public to walk more and reduce the use of motorized transport. How can the public be encouraged to walk more and reduce the use of motorized transport? The most important thing is to make pavements very well connected, so that it would be relatively easy for the public to go from one place to another. In addition, it has to be ensured that the public will not be rendered completely clueless in finding their way, so a footbridge can provide a most complete link for residents of Yuen Long to go from one point to another conveniently, smoothly and comfortably. I believe this responds to the demands of the public and it is also a matter the Government should deal with.

DEPUTY PRESIDENT (in Cantonese): Fourth question.

Boosting the development of industries that enjoy advantages in the process of Hong Kong's re-industrialization

4. **MR WU CHI-WAI** (in Cantonese): *Deputy President, the Policy Address published in January last year stated that industries enjoying advantages in the process of Hong Kong's re-industrialization ("advantageous industries") included biotechnology. It is learnt that quite a number of Mainland and overseas cities have implemented various concessionary measures in respect of land, capital and taxation to attract innovation and technology enterprises to establish their bases there. However, Hong Kong has not implemented similar measures, nor did it provide with concessions in taxation, housing, etc. to attract innovation and technology talents to come to Hong Kong for career development. On the other hand, some academics have pointed out that Hong Kong should leverage its strength in higher education by establishing a higher education institution that aims to nurture students' business start-up capability so as to boost the development of advantageous industries. In this connection, will the Government inform this Council:*

- (1) *whether it will, by making reference to the practices of Mainland and overseas cities, formulate more competitive measures to attract enterprises in advantageous industries to establish their bases in Hong Kong, and to attract relevant talents to come to Hong Kong for career development; if so, of the details; if not, the reasons for that;*

- (2) *whether it has examined if Hong Kong's existing polices on land and taxation, infrastructure facilities, pool of talents, etc. are sufficient to meet the needs of biomedicine enterprises in terms of factory sites and scientific research talents; if so, of the details; if not, the reasons for that; and*
- (3) *whether it will consider allocating lands in the Lok Ma Chau Loop or other suitable locations for the construction of a superb scientific research base that will bring together the scientific research strengths of various universities in Hong Kong, and for the construction of a business start-up institution to boost the development of advantageous industries; if so, of the details; if not, the reasons for that?*

SECRETARY FOR INNOVATION AND TECHNOLOGY (in Cantonese): Deputy President, innovation and technology ("I&T") is the driving force of economic development in the new era. Promoting re-industrialization is an important part of the Government's I&T policy. Over the past few years, an atmosphere favourable to I&T development has gradually built up in Hong Kong, with internationally renowned research institutions settling herein one by one. We will continue to focus on promoting the development of targeted technology areas, including: biotechnology, artificial intelligence ("AI"), robotics, smart city etc.

Our reply to the various parts of Mr MOK's question is as follows:

- (1) and (2)

With an independent judicial system and intellectual property protection system, a world-class financial centre, a level playing field and comprehensive infrastructure, as well as the unique edges under "one country, two systems" and the huge opportunities brought about by the development of the Guangdong-Hong Kong-Macao Bay Area, Hong Kong is among the first choices of business destinations for Mainland and multinational companies.

Using the examples of health care technologies, AI and robotics technologies, the Government is working on the establishment of the research clusters on health care technologies and on AI and robotics

technologies in the Hong Kong Science *Park* ("Science Park"). We have set aside \$10 billion to provide financial support to non-profit-making research centres or laboratories operating at the two clusters ...

(Mr Kenneth LEUNG stood up)

DEPUTY PRESIDENT (in Cantonese): Secretary, please hold on. Mr Kenneth LEUNG, you are interrupting the Secretary now. Are you raising a point of order?

MR KENNETH LEUNG (in Cantonese): *Deputy President, I request a headcount.*

DEPUTY PRESIDENT (in Cantonese): Mr Kenneth LEUNG has requested a headcount.

Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber, but some Members did not return to their seats)

DEPUTY PRESIDENT (in Cantonese): A quorum is present in the Chamber. Will Members please return to their seats. The meeting will now continue. Secretary, please continue to give your reply.

SECRETARY FOR INNOVATION AND TECHNOLOGY (in Cantonese): Deputy President, I pick up from where I left off.

Separately, the Government will allocate \$10 billion to the Hong Kong Science and Technology Parks Corporation ("HKSTPC") for constructing research-related infrastructure and facilities for common use to strengthen Hong Kong's research and development ("R&D") capabilities, and for enhancing support for HKSTPC's

tenants and incubatees, which includes expanding its Corporate Venture Fund and Incubation Programme, as well as attracting international technology enterprises to set up bases in the Science Park through providing incentives.

As regards health care technologies, the Biomedical Technology Support Centre in the Science Park is now providing more than 80 types of ready-to-use life science experimental instruments for use by tenants or incubatees. HKSTPC will make use of the allocation to construct specialized facilities for health care technologies, including pilot batch production facilities, animal research and drug testing facilities, and bio bank and medical informatics. Also, there are 23 pharmaceutical plants in the three industrial estates managed by HKSTPC, occupying an area of more than 200 000 sq m. To tie in with the development of the upstream, midstream and downstream industrial chain of health care technologies, the Government will explore with HKSTPC to identify suitable premises in the industrial estates of Tai Po or Yuen Long for developing the health care technology industry upon conversion and remodelling.

Stage 1 of the Science Park Expansion Programme is now underway. Upon expansion, some floors will be set aside for laboratory and research work spaces for health care and AI/robotics technologies. HKSTPC will also convert a building in the Science Park for a health care research laboratory.

In recent years, the Government has invested a large sum of resources to improve the I&T ecosystem in Hong Kong through various targeted measures, with a view to attracting to Hong Kong top research institutions and technology enterprises as well as technology talents from the Mainland and overseas. Relevant measures include:

- (i) On land and infrastructure, the Government actively identifies land to dovetail with I&T development, and is developing the Hong Kong-Shenzhen Innovation and Technology Park ("the Park") in the Lok Ma Chau Loop, thereby facilitating the sustainable development of I&T and re-industrialization in Hong Kong.

- (ii) On funding support, to encourage enterprises to carry out more R&D projects locally, we will provide enhanced tax deduction for the qualifying local R&D expenditure incurred by enterprises. The relevant Amendment Bill was introduced to the Legislative Council on 2 May 2018 for scrutiny.
- (iii) On pooling talents, we have announced the introduction of the pilot Technology Talent Admission Scheme to facilitate the admission of overseas and Mainland technology talents to work in Hong Kong by tenants and incubatees of HKSTPC and Cyberport that are engaged in certain technology areas. We will also launch the pilot Technology Talent Scheme to nurture local technology talents in the third quarter of this year. Besides, the InnoCell will provide residential units and ancillary facilities to target tenants, incubatees and overseas/Mainland visitors in the Science Park starting from 2021.

The Government will from time to time review existing policies and measures, and make enhancement as and when appropriate, having regard to the need arising from I&T development, thereby maintaining Hong Kong's competitiveness.

The Innovation and Technology Bureau will collaborate with the Invest Hong Kong and the Economic and Trade Offices overseas and on the Mainland to promote Hong Kong's latest I&T situation and opportunities, thereby attracting international R&D institutions and technology enterprises to Hong Kong.

- (3) In accordance with the Memorandum of Understanding on Jointly Developing the Lok Ma Chau Loop by Hong Kong and Shenzhen ("the Memorandum"), both sides have agreed to set up an integrated advanced training platform in the Park, with a focus on the provision of postgraduate programmes and professional training courses on new or advanced technology, aiming to nurture talents, and engender synergy and clustering effects with the facilities in the Park. We encourage the world's top higher education institutions to set up I&T related branches or facilities in the Park. With reference to the overall development plan of the Park, the Education Bureau will commence discussion and study on the details of establishing higher education facilities in the Park in due course.

Regarding the setting up of a superior scientific research base, the Government has proposed to establish two research clusters with an aim to attract top-notch local, Mainland and overseas research institutions. We will consider whether to expand the scale of the two clusters and whether to establish new clusters having regard to the experience of the implementation of the two research clusters, the global technology development, etc.

MR WU CHI-WAI (in Cantonese): *Deputy President, in respect of this reply from the Government, there are in fact a few questions worthy of follow-up. For example, it was reported earlier that Prof LI Zexiang of The Hong Kong University of Science and Technology, who succeeded in grooming students to found the drones company Da Jiang Innovations Science and Technology Company Limited, had requested the Government to allocate land for building a private university to cultivate students' business start-up capability, but he was turned down by the Government.*

It is pointed out in the main reply that the Education Bureau will commence discussion and study on the details of establishing higher education facilities in the Park in due course. Actually, how will the bureaucrats in the Education Bureau have the ability to jump out of the existing framework and set up an innovation-oriented university? Why does the Government not trust experts and academics with track records or even give all the tertiary institutions a free hand in pursuing their own development and seize the new opportunities?

It is also mentioned in the Government's main reply that there is a lot of support in respect of health care technologies, and many pharmaceutical plants are located in the industrial estates. However, do these pharmaceutical plants actually produce ordinary generic drugs or conduct R&D in new high-end products? Some time ago, one of the professors working in the State Key Laboratories of the University of Hong Kong said that in the absence of any downstream industry in Hong Kong, vaccines researched and developed in the past could not be followed up all the way from laboratories to pharmaceutical plants, thus greatly undermining the results of R&D.

Deputy President, the Government's reply indicates that it will make efforts to tie in with the upstream, midstream and downstream industrial chain of health care technologies. As we all know, to attract overseas high-tech enterprises (including pharmaceutical companies) to establish bases in Hong Kong, the land concession policy is actually a very important issue besides talents.

On this point, may I ask the Government whether it will, in its effort to attract overseas pharmaceutical companies to establish bases in Hong Kong, conduct a study on or launch any land policy so that Hong Kong will become an appealing and competitive place in this aspect, thereby attracting overseas enterprises to come here to establish bases and set up plants to serve the downstream chain in Hong Kong?

SECRETARY FOR INNOVATION AND TECHNOLOGY (in Cantonese): Deputy President, I thank Mr WU for his question. With the economic impetus brought by the Internet, industries can be described as constantly changing at a great speed. Given the Government's role as a facilitator and promoter, its policy must carry a macro perspective and promote industry development with a technology-based platform spanning different industries. But most importantly, we need to create an ecology suitable for facilitating sustainable industry development.

Just now the Member asked if we have any land policy. In this regard, I wish to point out that we have launched the new industrial estate policy and will develop in the direction of re-industrialization. Under this new industrial estate policy, scientific research companies will be admitted with priority given to the I&T industry. We will mainly build and manage specialized multi-storey industrial buildings for rental by a multitude of users instead of granting land sites to single users to build their own factories. Our purpose is to create an ecosystem with clustering and synergy effects. Besides, now we are building the Data Technology Hub and the Advanced Manufacturing Centre in Tseung Kwan O. These two centres will take the lead in assisting local manufacturers, giving them priority in enjoying the advantages of advanced manufactories. In the long term, we are conducting a study on the development of a new industrial estate at Liantang/Heung Yuen Wai and have recently published a report in this regard. Moreover, most importantly, the development of the Park in the Loop will also stimulate industry development. Hence, I wish to point out that the land policy alone is insufficient to promote the development of the whole industry. Basic infrastructure, R&D of technologies, training of talents and financial support must also be included in order to achieve comprehensive industry development.

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

MR WU CHI-WAI (in Cantonese): *My supplementary question is actually very specific. Pharmaceutical companies form the most important link in the downstream of industrialization. I asked the Secretary whether there is any concrete policy in this aspect, but the Secretary made a lengthy reply which was only a general response without answering my question.*

DEPUTY PRESIDENT (in Cantonese): Mr WU, you have clearly pointed out which part of your supplementary question has not been answered. Please sit down. Secretary, regarding the land policy for attracting overseas pharmaceutical companies to establish bases in Hong Kong, do you have anything to add?

SECRETARY FOR INNOVATION AND TECHNOLOGY (in Cantonese): Deputy President, we have nothing to add.

MR CHAN CHUN-YING (in Cantonese): *Deputy President, the current-term Government wishes to raise the percentage of R&D expenditure as a share of GDP (i.e. Gross Domestic Product) from 0.3% to 1.5% in five years. In this connection, the Government said that input from the private sector is vitally important. The measures adopted should be "lenient initially and tightened up later". But I know and understand that the existing policy objective is to encourage local scientific research. For this reason, local scientific research may enjoy double or triple tax deduction. However, very often, our core technology needs to be introduced from overseas and then modified before becoming local R&D. Yet the expenditure on such R&D can only enjoy the basic tax deduction of 100%. May I ask whether the Government will consider granting tax deduction of, for example, 150%—no need to be double or triple—for expenditure on R&D of this kind of core technology? In this way, a better environment can be created for our I&T development.*

SECRETARY FOR INNOVATION AND TECHNOLOGY (in Cantonese): Deputy President, I thank Mr CHAN for his supplementary question. Now apart from encouraging local R&D, we also wish to nurture local R&D talents. We encourage the relevant organizations to join our two clusters, and after becoming local enterprises or local organizations, they will enjoy our super tax concession. This is the first point. Secondly, it is not true that we do not provide any tax concession to other overseas R&D institutions. Rather, we offer 100% tax deduction in accordance with the normal practice. The main purpose is to incentivize them to capitalize on the strengths of local universities and jointly conduct R&D. Given the present clear target of the Chief Executive to raise the percentage of R&D expenditure as a share of GDP, we must dedicate our efforts to increasing local R&D and training local talents.

MR KENNETH LEUNG (in Cantonese): *Deputy President, the Secretary mentioned in the main reply the development of the Park in the Loop. I heard him speak at quite some length. Can he present a timetable or milestone? That is, we wish to know what the milestone is.*

SECRETARY FOR INNOVATION AND TECHNOLOGY (in Cantonese): Deputy President, I thank Mr LEUNG for this supplementary question. First, let me report to Members the present progress of the Loop. As Members all know, the Memorandum relating to projects in the Loop was signed early last year, followed by speedy endorsement by the Town Planning Board, and the planning was thus completed. Subsequently, we have just obtained the support of Legislative Council Members who approved the first funding provision for conducting site formation and decontamination work in the Loop. We will carry out such work at the fastest speed, but we also have to work under the mechanism. For the milestone of our next step, we wish to deliver by 2021 the first formed land site to HKSTPC for commencing the construction of the first building associated with R&D in the Loop. We are now doing the relevant work.

Moreover, in December last year, HKSTPC set up a company the main objective of which is to recruit manpower and prepare a consultancy report for exploring the best business model for development of the Loop. Meanwhile, at the G2G (i.e. Government to Government) level, I have maintained close liaison with the Shenzhen Municipal Government on behalf of the Innovation and

Technology Bureau. We hope there will be a synergy effect in the development not only in a certain aspect but also in other aspects, and such development will bring forth a "win-win" situation in both the Loop and the area covering 3 sq km in Shenzhen on the opposite side of the Loop.

MR KENNETH LAU (in Cantonese): *Deputy President, currently the Government has put in place such projects as the University-Industry Collaboration Programme, the Technology Start-up Support Scheme for Universities and the Midstream Research Programme for Universities to foster inter-institutional cooperation and R&D. In my view, the Government should consider setting up an I&T institution, focused on training talents in the I&T industry, facilitating exchanges among experts and researchers from different regions, and commercializing the research results to create economic value. The Government has reserved land in the Hung Shui Kiu New Development Area for I&T uses. In addition, in the vicinity of the Liantang/Heung Yuen Wai Boundary Control Point, there will be an industrial estate, the Park, etc. May I ask the Government whether it is feasible to set up an I&T institution on the site mentioned above? How does the Government look at this proposition, and will it launch a feasibility study?*

SECRETARY FOR INNOVATION AND TECHNOLOGY (in Cantonese): I thank Mr LAU for his supplementary question. In the Memorandum, both Hong Kong and Shenzhen agreed to establish in the Park a key base for cooperation in scientific research, including an advanced training platform. This covers the I&T institution mentioned by Mr LAU just now. We are considering setting up these facilities in the Loop. Moreover, as I mentioned in the main reply just now, we will inform the Education Bureau of the details. We hope the Education Bureau and local universities will jointly consider establishing a high-end training platform in the Loop. Regarding industrial estates, now we are focusing efforts on identifying sites for continuous development of the manufacturing industry. This is the purpose of industrial estates. Hence, we are taking forward the relevant work under a two-pronged approach.

DEPUTY PRESIDENT (in Cantonese): Fifth question.

Prevention of incidents of cruelty to animals

5. **DR PRISCILLA LEUNG** (in Cantonese): *Deputy President, last year, this Council passed a motion on "Safeguarding animal rights", urging the Government to adopt 26 measures to safeguard animal rights. Moreover, since April this year, dedicated investigation teams have been set up, in the 22 Police districts across the territory which have criminal investigation teams, to handle animal cruelty cases. However, a number of appalling incidents of cruelty to animals still happened in recent months. In this connection, will the Government inform this Council:*

- (1) *as the Secretary for Food and Health indicated last month that the law would be amended to introduce a concept of positive duty of care of animals on animal keepers, of the details of the proposal and the legislative timetable; whether it will comprehensively review the penalties under the Prevention of Cruelty to Animals Ordinance in order to enhance the deterrent effect;*
- (2) *whether the dedicated investigation teams under the Police have strengthened the exchange with each other of the experience in investigating cases of cruelty to animals, and established a close communication and cooperation mechanism with the Agriculture, Fisheries and Conservation Department, the Society for the Prevention of Cruelty to Animals (Hong Kong) and concern groups on animal interests; if so, of the details; if not, the reasons for that; and*
- (3) *whether it will consider allocating additional resources to implement an animal caring community ambassador programme to raise public awareness of caring for animals and offer all-round support for animal keepers, so as to reduce the occurrence of incidents of cruelty to animals?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *Deputy President, the Government attaches great importance to protecting animal welfare and implements a series of measures in this regard. Apart from prohibiting and punishing acts of animal cruelty, efforts in public education are being increasingly stepped up.*

Having consulted the Security Bureau, my reply to various parts of the question raised by Dr Priscilla LEUNG is as follows:

- (1) We are reviewing the existing legislation relating to animal welfare, including exploring the introduction of a concept of positive duty of care on animal keepers, i.e. requiring animal keepers to take all necessary measures to protect the welfare of their animals, such as providing proper care and sufficient space for their animals and preventing them from disease, injury or suffering, etc. by taking necessary measures. Having regard to overseas experience and opinions of animal welfare organizations and other stakeholders, the Agriculture, Fisheries and Conservation Department ("AFCD") will exchange views with the stakeholders in relation to the preliminary proposals in the second half of this year, with a view to consulting the public in 2019. Although the maximum penalty under the existing Prevention of Cruelty to Animals Ordinance (Cap. 169) is higher than that of other developed places, we will also take this opportunity to re-examine the penalty level under the Ordinance.
- (2) In 2011, the Police, together with AFCD, the Society for the Prevention of Cruelty to Animals ("SPCA"), veterinary associations and concern groups, introduced the Animal Watch Scheme ("the Scheme") to combat and handle animal cruelty cases more effectively through a four-pronged approach, covering education and training, publicity, intelligence gathering and investigation. The Scheme reinforces collaboration among various stakeholders and strengthens the Police's efforts in the investigation of animal cruelty cases. The College of Veterinary Medicine and Life Sciences of the City University of Hong Kong joined the Scheme in 2017.

On training, officers from AFCD and SPCA enlighten the multi-agency approach for the investigation of animal cruelty cases to police officers participating in foundation training and criminal investigation courses. AFCD also provides animal welfare training for officers of the dedicated investigation teams set up by the Police in 22 police districts across the territory to strengthen their efforts in combating animal cruelty cases. The investigation teams of various districts also share their experience on a common platform.

On intelligence gathering, the Scheme encourages SPCA, veterinarians, animal concern groups and members of the public to report any persons or activities suspected to be involved in animal cruelty. Individual police districts maintain close communication with the animal concern groups in their respective districts, with a view to stepping up intelligence gathering efforts and following up on cases. On investigation, the Police, AFCD and SPCA have established a cooperation mechanism, whereby officers from AFCD and SPCA will provide professional advice and assist in the investigation at the scene of suspected animal cruelty cases where necessary.

- (3) As for the Member's proposal to allocate additional resources to raising public awareness of caring for animals, such as by implementing an animal caring community ambassador programme, we agree with the importance of enhancing the work in this regard. On publicity and education, a dedicated team was set up by AFCD in 2011 to disseminate messages of caring for animals and responsible pet ownership through various activities, including dog adoption carnivals, pet adoption days, dog training programmes, and school and estate seminars, etc. Each year AFCD invites artists to promote the animal adoption carnivals and pet adoption days. Announcements in the Public Interest are also produced and broadcast on buses and online platforms to raise the public awareness of caring for animals. AFCD also invited famous artists as the ambassadors of the pet adoption day held last weekend. The event had successfully attracted around 16 000 participants and contributed positively in encouraging the public to consider animal adoption.

Furthermore, the Police promote the Scheme to members of the public through various channels to convey the message of prevention of animal cruelty, and enlist community support to enhance public awareness in this respect. At the same time, AFCD has been working closely with, and providing financial support to, animal welfare organizations for carrying out work in this regard.

Support from society at large is essential to enhancing animal welfare. We will continue the work on this front with relevant departments, and look forward to receiving Members' support for our work on reviewing the legislation relating to animal welfare.

DR PRISCILLA LEUNG (in Cantonese): *I thank the Secretary for her reply. I think apart from arrests and punishment, it is more important to provide assistance and counselling. As we can see from those cases in which animals were tortured to death, it was often because the owners are unable to cope with the ageing of animals and so, even the owners themselves need counselling. Part (2) of the main reply mentioned the College of Veterinary Medicine and Life Sciences of the City University of Hong Kong ("CityU")—I also teach in CityU—and I wish to mainly talk about community ambassadors. Will the Government play a more active role by, among others, appointing current students in that discipline to be ambassadors, in order for the scheme to be more down-to-earth? We certainly welcome celebrities or artistes to be appointed as ambassadors but a down-to-earth approach is more important. Even in public estates there are people keeping small animals as pets at home but as the animals grow old, the owners often do not know how to handle them. Therefore, a pertinent and down-to-earth approach may be necessary in this respect. Apart from the participation by current students in this discipline and veterinary associations, these activities must not be organized only once and efforts should be made for the animal ambassador scheme to be more pertinent and thorough. Is this possible?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Dr LEUNG for her views. With regard to our work in the promotion of animal welfare, we are glad to see participation by an institution that provides the veterinary programme, because just as Dr LEUNG said, it is our wish that this area of work can be carried out in a sustained and effective manner. Therefore, we are open to involving more participation from the relevant students in these activities.

MR WILSON OR (in Cantonese): *Deputy President, in part (2) of the main reply the Secretary mentioned that a multi-pronged approach covering education, publicity, training, intelligence gathering, etc. will be adopted by the Government to handle issues relating to animal welfare. In her reply the Secretary said right at the outset that the Government attaches great importance to protecting animal welfare and in this connection, I wish to ask the Secretary a further question: Apart from conducting publicity through academic institutions, will the Bureau consider adopting more measures, such as carrying out the relevant work through the 18 District Councils ("DCs")? Another hat that I am wearing is a member of the Kwun Tong District Council. Honestly, in my impression I have never heard that the relevant Policy Bureaux or SPCA or even staff of AFCD*

have come to DCs to promote the relevant work or step up training. We have never seen anything like this before. Will the Bureau consider utilizing the existing three-tier representative structure of district administration comprising DCs, Area Committees and Mutual Aid Committees in the districts to help carry out the publicity work? Is the Secretary willing to make a pledge in public that she will carry out work in this respect?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Mr Wilson OR for his suggestion. As I said earlier, when carrying out any promotional work, actually it should always aim at reaching out to the public. We are open to the suggestion that work can be carried out through various organizations or as Mr Wilson OR suggested, by involving DCs, academic institutions, and so on. Our objective is to take forward publicity and education on the one hand and on the other, we hope that the message can penetrate into the community. To this end, we take an open attitude towards any suggestion that can effectively serve the purpose. I thank Mr OR for his suggestion. We hope that in future, apart from forging cooperation with animal welfare organizations and animal concern groups, AFCD will also conduct publicity in DCs.

MR CHAN HAK-KAN (in Cantonese): *Deputy President, I noticed that after assuming office, the Secretary has conducted some reviews of the work relating to animal welfare. For instance, as she said in the main reply, the penalty of animal keepers will be increased, and the proposal made some time ago of requiring drivers to report to the Police after knocking down cats or dogs. These seem to be a good direction but quite a number of animal welfare organizations think that these are only minor patch-up work. The Secretary has spent so much time doing just minor patch-up work. Why does she not review the overall animal welfare policy in Hong Kong in one go? For issues such as the implantation of microchips in cats as proposed by many organizations now, the Trap-Neuter-Return Programme, "animal police", and imposing heavier penalty for animal cruelty cases, all these can be reviewed in one go. Why should the relevant legislation be tabled to the Legislative Council piece by piece separately? Is it possible to conduct an overall review?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Mr CHAN Hak-kan for his views. As I pointed out earlier on, we will, after reviewing the legislation in relation to animal welfare, exchange views with the stakeholders on the preliminary proposals in the second half of this year.

Therefore, the review has a broad coverage. On the one hand, we will review the existing legislation in relation to animal cruelty or animal welfare, in order to ascertain the areas where efforts should be stepped up. At present, our initial view is that with regard to Cap. 169, we have come up with some preliminary proposals which include how we should draw up codes of practice for animal keepers, how government officers can issue "animal care improvement notices" to persons failing to take proper care of animals, how regulation can be enhanced on abandoned animals, and examining the feasibility of empowering the Courts to prohibit convicted persons from keeping animals again. These are the initial directions and we will continue to listen to the views of Members. We will exchange views with the stakeholders on the preliminary proposals in around the second half of this year to find out about their views on these directions before launching a public consultation.

As for the other issues raised by Mr CHAN, they have all along been under review by the authorities, and work has also been taken forward targeting these areas. Therefore, with regard to the review suggested by the Honourable Member, it is what we have been doing. On the direction of the legislation, or legislation in relation to animal welfare that I have just mentioned, the relevant work will be carried out expeditiously. As for other aspects in which we should do better, the relevant work is also in progress now.

DR ELIZABETH QUAT (in Cantonese): *Deputy President, on 3 May, I arranged for Prof Mike RADFORD of the University of Aberdeen to come to Hong Kong for a meeting with the Under Secretary and representatives of the department to discuss the introduction of an all-embracing law on animal welfare in Hong Kong. At the meeting it was proposed that reference could be drawn from the existing law in the United Kingdom, so that above the existing legislation, an "umbrella" can be established, or an overall principle or animal welfare concept can be set to stipulate that animal keepers are required to take necessary measures to protect the well-being of their animals.*

I am very glad to hear the Secretary mention in her main reply today that the authorities are studying the introduction of this concept. That said, I wish to make a point clear. We pointed out at the time that under the overall principle, the many existing fragmentary laws relating to animals will require certain amendments. But I can see that when the main reply referred to the introduction of this concept, only Cap. 169 was mentioned, and this is why I feel rather concerned. Is it that apart from including in the future consultation the

introduction of an overall principle and concept, the authorities will actually make certain amendments to every piece of legislation relating to animal welfare and will then conduct consultation and introduce legislative amendments comprehensively, as suggested by Mr CHAN Hak-kan just now?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Dr Elizabeth QUAT for her continuous concern about animal welfare. Just now I mentioned some initial directions and if they can command support or after we have exchanged views with the stakeholders or even after completion of the public consultation, we will decide on the directions. Certainly, we will look into whether the existing legislation can cover these directions and if they cannot be covered, how amendments should be made. This will be reviewed altogether.

MR GARY FAN (in Cantonese): *Deputy President, in part (2) of the main reply the Secretary stressed publicity and at the same time, she also stressed intelligence gathering and investigation. I particularly wish to ask a question in this connection because the main reply mentioned that the Legislative Council passed the motion on "Safeguarding animal rights" in June 2017, and three months before this motion was passed, the amended Public Health (Animals and Birds) (Animal Traders) Regulation (Cap. 139B) came into effect, giving a green light to the breeding of animals by private individuals for sale.*

I would like to ask the Secretary this question. If intelligence gathering, publicity and investigations are important, what is the actual situation of surprise inspections and regular inspections after the legislative amendments were made in March 2017? Are there figures available for our reference? Because back then the Legislative Council was extremely concerned, thinking that mere regular inspections would not produce effective results and that only through surprise inspections would there be a chance for cases of animal cruelty to be exposed for prosecution or follow-up by the Government. Does the Secretary have the actual information to provide to this Council?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I thank Mr Gary FAN for his supplementary question. In fact, we are also very concerned about the situation after Cap. 139B was brought into effect. I do not have the actual figures up my sleeves but I can provide them later. (Appendix I)

As far as I understand it, regarding the implementation of the Regulation after it came into effect and if Mr FAN can recall, we have increased the provision of resources and manpower for AFCD to carry out the relevant work, including inspections, arrangements after the Regulation was brought into effect, and so on. Therefore, we have actually stepped up work in this regard. We will provide the relevant figures later. According to the information that I have with me now, the implementation and enforcement of the Regulation have been smooth.

MR GARY FAN (in Cantonese): *Deputy President, the Secretary did not answer ...*

DEPUTY PRESIDENT (in Cantonese): Mr Gary FAN, you can only point out the part of your supplementary question that has not been answered.

MR GARY FAN (in Cantonese): *I understand. To follow up, I would like the Secretary to provide the figures of surprise inspections, not those of regular inspections, for that is where the key lies. I am asking for the figures of surprise inspections. If there is no surprise inspection, the effectiveness would be questionable.*

DEPUTY PRESIDENT (in Cantonese): Mr FAN, you have already stated clearly your request to the Secretary for the figures of inspections, and the Secretary has also promised to provide the relevant figures after the meeting. Last oral question.

Reducing the use of disposable plastic tableware

6. **MR CHAN HAK-KAN** (in Cantonese): *Deputy President, during the decade from 2005 to 2015, plastic waste discarded at landfills increased by one quarter, and the proportion of plastic tableware in discarded plastic waste increased by three percentage points to 8% ...*

(Mr Gary FAN stood up)

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Hak-kan, please hold on. Mr Gary FAN, what is your point of order?

MR GARY FAN (in Cantonese): *Deputy President, I request a headcount.*

DEPUTY PRESIDENT (in Cantonese): Mr Gary FAN has requested a headcount.

Will the Clerk please ring the bell to summon Members back to the Chamber.

(While the summoning bell was ringing, THE PRESIDENT resumed the Chair)

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

PRESIDENT (in Cantonese): Mr CHAN Hak-kan, please continue asking your main question.

MR CHAN HAK-KAN (in Cantonese): *President, I thank Mr Gary FAN for summoning Honourable colleagues back to the Chamber so that they can pay attention to the problem of disposable plastic tableware. President, during the decade from 2005 to 2015, plastic waste discarded at landfills increased by one quarter, and the proportion of plastic tableware in discarded plastic waste increased by three percentage points to 8%. The findings of a survey conducted last year by a green group have shown that two major fast food chains handed out disposable tableware to their customers, irrespective of whether they dined in or took away the food. Based on the survey findings, it is estimated that five major fast food chains handed out a total of more than 420 million pieces of disposable plastic tableware in 2016. In this connection, will the Government inform this Council:*

- (1) *whether it will discuss with the operators of major fast food chains the setting of a target and an implementation timetable for reducing and ultimately ceasing the use of disposable plastic tableware; if so, of the details; if not, the reasons for that;*

- (2) *whether it will issue guidelines to small eateries to encourage and help them to reduce the use of disposable plastic tableware; if so, of the details; if not, the reasons for that; and*
- (3) *given that the Environment Bureau set out in the Hong Kong Blueprint for Sustainable Use of Resources 2013-2022 published in 2013 a target to reduce the per-capita municipal solid waste disposal rate by 40% by 2022 as compared with 2011, whether it has assessed how far the current situation is off target; of the measures in place to further encourage restaurants and members of the public to reduce the use of disposable plastic tableware, so as to achieve such target expeditiously?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the Hong Kong Blueprint for Sustainable Use of Resources 2013-2022 ("the Blueprint") formulated by the Government sets out the 10-year waste management strategies as well as the target of waste reduction by 40% by 2022. Owing to factors such as the continuous growth of our economy, the tightening of import requirements for certain recyclables by the Mainland and the change in demand for recyclables in the global market, the quantity of local waste generation has shown a rising trend at this stage due to an increase in commercial and industrial waste generation despite a slight reduction in domestic waste generation.

To achieve the waste reduction target set out in the Blueprint, the Environmental Protection Department has been implementing or initiating a number of measures. These include making various efforts to promote and educate the public about the message of "use less, waste less", strengthening source separation and clean recycling of waste, implementing producer responsibility schemes progressively, exploring more technologies and means to process recyclables, assisting the recycling industry in upgrading their standards and capabilities through the Recycling Fund, making laws to implement municipal solid waste ("MSW") charging, etc.

In terms of disposable plastic tableware, although they account for only about 2% of MSW disposed of locally, once entering the marine environment, these waste plastics will exist for a prolonged period of time and pose threats to marine organisms. There is no way that Hong Kong can remain aloof from the issue. To achieve a "plastic-free ocean", eliminating plastics at source is the

most fundamental way. The Government is thus deeply concerned about the environmental impact brought by disposable plastic tableware. We have been paying close attention to the research and development in other countries or regions on the control of disposable plastic tableware and the policies and measures proposed therein, as well as the various ways to reduce and even phase out disposable plastic tableware.

EPD plans to commence a study within this financial year to obtain the in-depth knowledge about the mainstream proposals worldwide on the future control mechanism of disposable plastic tableware and their means of implementation, and consider whether it is suitable to implement the control on disposable plastic tableware in future having regard to the local situation. If any suitable proposal is identified, we will study the scope of control and various related matters, including such details as the types of tableware on which control will be imposed, the means of control, the applicable substitutes, etc. We will also look into the implications of such control on various sectors, including the public and the trades concerned, and consult the relevant trades and stakeholders. Based on the findings of our study and analysis, we will draw up a specific proposal that is suitable for implementation in Hong Kong.

As regards the catering sector, the Government has been providing various types of restaurants with guidelines and assistance to encourage them to implement green measures, and to reduce the use of disposable tableware. These measures include providing dine-in customers with only reusable tableware, avoiding the use of plastic foam food containers for keeping takeaway food, welcoming customers to bring their own food containers for buying takeaway food, etc. Under the Sustainable Development Fund, the Government has earlier supported the food and beverage sector to formulate guidelines on green procurement by the trade, with the aim of encouraging various types of restaurants and eateries to practise green procurement, including the use of reusable or plant-fibre tableware instead of disposable plastic ones. Through the annual Hong Kong Awards for Environmental Excellence, EPD also commends restaurants that have excelled in waste reduction at source, such as those taking measures to encourage customers not to ask for disposable tableware.

The Government has taken the lead in adopting a green procurement policy, which includes avoiding the use of disposable tableware. Internal guidelines have been issued to advise all bureaux and departments to avoid the use of disposable items as far as practicable. In future, we will explore means to require canteen operators in government properties to, where circumstances

permit, avoid offering plastic straws, avoid distributing disposable tableware to dine-in customers, avoid distributing disposable tableware sets for takeaway food, avoid distributing any single-use tableware by default, and use tableware or lunch boxes made of greener materials (e.g. plant fibre) to replace disposable plastic tableware. In addition, we will consider launching voluntary schemes on using less plastic and disposable tableware in the food and beverage sector under the Food Wise Hong Kong Campaign. EPD will take into consideration the experience gained in these voluntary schemes, as well as the stakeholders' views, in tandem with conducting the above mentioned study on the control of disposable plastic tableware.

At the community level, EPD is committed to facilitating the general public and various sectors to reduce the use of disposable plastic tableware, and to enhancing public awareness of environmental protection through proactive promotional and educational efforts. For instance, green lunch has been promoted in schools through the Environment and Conservation Fund ("ECF"). Local non-profit-making organizations have also been subsidized by ECF to run community projects to inspire citizens and students to bring and use their own reusable tableware.

Avoiding the entry of plastic waste into the marine environment is a common challenge currently faced by the international community. To protect the nature and our next generation, the Government will keep on promoting waste reduction by encouraging every sector and citizen to treasure our resources, and as far as practicable minimize the use of disposable items, including disposable plastic tableware, thereby joining hands to build a cleaner and greener Hong Kong.

MR CHAN HAK-KAN (in Cantonese): *President, I noted the main reply states that the Government intends to impose control on disposable plastic tableware, which is a good direction. But the authorities will commence the study only in this year, probably conduct public consultation next year, initiate drafting of the bill two years later, draw up the bill three years later and then introduce the bill into the Legislative Council for First Reading four years later. According to such progress, no legislation can be enacted on this within a few years. May I ask the Secretary, pending the enactment of the legislation, whether the Government can incentivize restaurants to reduce the use of disposable plastic tableware? For example, in fact, now in the canteens of some universities, if students or staff do not use disposable plastic tableware, they get a \$3 discount.*

It is similar to the \$1 discount offered by some fast food restaurants to customers who request less rice at making orders. Will the Secretary offer financial incentives in this regard to encourage restaurants to reduce the use of disposable plastic tableware?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Mr CHAN has made a very good suggestion. As I have stated in the main reply, in tandem with the study, we will consider launching voluntary schemes on using less disposable plastic tableware in the food and beverage sector under the Food Wise Hong Kong Campaign. We hope to gain experience from the voluntary schemes to formulate specific measures for the control programme to be implemented in future. In such voluntary schemes, we can consider many different options. We find the suggestion made by Mr CHAN just now very good and will take it into consideration.

MR TOMMY CHEUNG (in Cantonese): *President, in the 23 years I have been engaged in politics, I have all along been keeping a close watch on EPD. I wish to point out that indeed EPD is my arch-enemy because it has not done anything else except enforcing policies by "brute force". Mr CHAN Hak-kan mentioned the Government's plan to impose control on disposable plastic tableware. In fact, in the Secretary's main reply, I can provide Mr CHAN with a self-justifying answer for the Government: there is a complete lack of workers handling the tasks of washing tableware; no one does the work of washing bowls, cups, plates, chopsticks and spoons, and so restaurants all use disposable tableware, making it more difficult for the Government to meet the target.*

Returning to the main question, I quite like the Secretary's reply given just now. I have told the Secretary earlier that I am currently talking with a number of major fast food chains on the introduction of relevant discounts, so as to encourage people to not request plastic spoons, plastic forks, plastic knives, wooden chopsticks and napkins of their own accord. I hope that the Government will not be just quick to pay lip service but slow to provide financial support, and only rely on legislation to tackle the problem of disposable plastic tableware. If the discussion with the fast food chain proves fruitful, I hope the Government can "put money on the table" to benefit people so that they can develop a good habit of bringing tableware for dining out and so obviate the need for disposable tableware. Can the Secretary tell us whether the Government is willing to provide ample financial resources to this end?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, we thank Mr CHEUNG very much for his views. We understand that to promote reduction in the use of disposable plastic tableware, consideration has to be given to many factors. Hence, we cannot simply copy overseas practices but have to review the actual circumstances of Hong Kong to determine the ways of implementation. Therefore, as I have just said, we will launch voluntary schemes. And we will definitely step up the cooperation with the catering industry. Mr CHEUNG asked whether the Government would consider allocating resources to this end, such as providing financial incentives. We will certainly consider such suggestions. But we need to further discuss with the catering industry before we can determine how best such can be implemented actually.

MR POON SIU-PING (in Cantonese): *President, in the main reply, the Secretary said, "To achieve a "plastic-free ocean", eliminating plastics at source is the most fundamental way." Of course I very much subscribe to it. The Secretary stated just now, "EPD plans to commence a study within this financial year to obtain the in-depth knowledge about the mainstream proposals worldwide on the future control mechanism of disposable plastic tableware and their means of implementation." Just now Mr CHAN Hak-kan expressed his worry that it would be an unknown time when the authorities would implement the specific measures after completing the study.*

Actually, I mainly wish to ask: When will the study commence and does the Bureau have a timetable?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank the Honourable Member for his supplementary question. The study is expected to commence within this financial year, i.e. before April next year. According to our preliminary estimation, it may take two years. However, as I have stated, we will not wait until the completion of the study to take actions. At this stage, we will launch some voluntary schemes, in collaboration with the catering industry, to gain experience of reducing the use of disposable tableware in this period of time. Such experience and the information collected through the schemes can supplement the study for the formulation of a long-term control programme.

MS TANYA CHAN (in Cantonese): *President, I wish to confirm whether I have heard it wrong. The study takes two years, am I right?*

Also, President, the Secretary said that the Government has issued internal guidelines. I would like to ask about the general scope of the internal guidelines. Is it possible to give us a copy?

President, I would also like to say that in the Chinese version of the main reply given by EPD to this question, "一次性即棄" (translation: single-use disposable) has appeared a number of times. In my view, "disposable" simply means something is intended to be disposed of after use, not "single-use disposable". The equivalent in the English version of the main reply is "disposable", and the back translation of it into Chinese is probably "棄". However, putting the adjective "single-use" before it makes it "single-use disposable", and the back translation of it into Chinese is "一次性即棄" (translation: single-use disposable), rendering such a meaning redundant.

President, I noted that Mr CHAN Hak-kan used "disposable" both while reading out the oral question or in the written version of the oral question. I hope the Secretary can take note of this point. Separately, I wish to ask the Bureau: Can it explain the contents of the internal guidelines issued to departments? I occasionally attend meetings in the offices of government departments and would be served tea or water. But sometimes paper cups and plastic lids are used, possibly producing waste. I wonder if such internal guidelines contain appropriate recommendations in this regard.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): *President, I thank the Honourable Member for pointing out how our wording can be improved. We will make changes when we are back in the office. The Government has issued internal guidelines, covering two aspects: one concerns government procurement and the other avoidance of the use of disposable items. The guidelines on procurement is not only about how to refrain from using disposable tableware but also how government departments carry out green procurement so as to minimize the procurement of disposable tableware or items. It is the practice in respect of procurement.*

Moreover, the guidelines also suggest that government departments should avoid using environmentally-unfriendly items when organizing activities, including avoiding waste when selecting food menus, avoiding the purchase of bottled water and avoiding the use of disposable items. It is the general content of the guidelines.

MS TANYA CHAN (in Cantonese): *President, I wish to ask the Secretary again if it is possible to provide us with the international guidelines. I already made such a request just now.*

PRESIDENT (in Cantonese): You may not ask a follow-up question but if the internal guidelines mentioned by the Secretary can be provided to Members, will the Secretary please provide them in writing to Members.

MR LEUNG CHE-CHEUNG (in Cantonese): *President, the Government has formulated the Blueprint, which proposes waste reduction and even charging. However, just now Mr CHAN Hak-kan's main question pointed out that, despite the government advocacy of waste reduction, in fact, more and more plastic waste has been discarded at landfills, possible entering the ocean. Recently, it has come to our attention that some whales or even other types of fish died from failure to consume food after swallowing plastic waste. It has created a great impact on the global ecosystem.*

In my view, given that more plastic waste has been resulted from stronger efforts in waste reduction, currently no solution can be found in the few proposals made by the authorities or in the Blueprint. For example, the Government encourages the industry to avoid the use of disposable plastic tableware, but when we dine at restaurants, basically we still see disposable plastic tableware. How can such a problem be solved?

Therefore, I would like to ask: In recent years, a number of green groups have been advocating reduction in the use of plastic straws, and now the Government has taken the initiative to require all canteens inside government properties to stop using plastic straws, are canteens of the disciplined services included?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, canteens of the disciplined services are indeed housed inside government properties. Should such canteens not be able to do so due to certain reasons, we will discuss in detail with the operators when formulating the guidelines.

MR HUI CHI-FUNG (in Cantonese): *Mr Tommy CHEUNG stated just now that, as regards whether to not to legislate against the use of disposable plastic tableware, EPD is his arch-enemy. Contrarily, I say that the Government, that has not yet worked out a legislative timetable at this moment, is the arch-enemy of marine organisms.*

Secretary, one out of every three sea turtles has swallowed plastic. He has adopted such an attitude and not even has a timetable. How can he face mother nature and marine organisms? We have been lagging behind the whole world. France and Taiwan have definite timetables for this matter. The European Union has also passed a bill to require its member states to legislate against the use of 10 types of plastic products.

Therefore, my supplementary question is: What are the reasons for the Secretary still not daring to say today that stricter control would be imposed over disposable plastic tableware and not even having a legislative timetable? Is it because the Government is too indolent and too weak or Mr Tommy CHEUNG too frightening and the vested interest of the industry too strong that the Government has adopted delaying tactics?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank the Honourable Member for his supplementary question. Before each environmental measure is implemented in Hong Kong, we have to consider the circumstances specific to the local situation. Hong Kong does not have its own industries. Most of the time, the goods and products, as well as other resources, that we use rely on overseas supply. For this reason, when formulating policies to reduce or even phase out certain commodities, it is imperative to study the practicability. Under many circumstances, we need to conduct studies to gain a full picture of the local situations.

Mr CHEUNG has just mentioned that if we are to truly impose control on disposable plastic tableware, the actual operation of the local industry, which may

be different from overseas practices, must be factored in. Therefore, it is the reason why we need to first conduct a study, draw up a proposal and then come up with a timetable.

PRESIDENT (in Cantonese): Mr HUI Chi-fung, which part of your supplementary question has not been answered?

MR HUI CHI-FUNG (in Cantonese): *The Secretary has not answered: Why is there not a legislative timetable even though we have been lagging behind the whole world?*

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

(The Secretary for the Environment indicated that he had nothing to add)

MR KENNETH LEUNG (in Cantonese): *President, in paragraph 4 of the main reply, the Secretary mentioned that the Government would "consider whether it is suitable to implement the control on disposable plastic tableware in future". Of course, I find it absolutely unacceptable that now the Government is still "considering" and conducting "a study".*

Another problem related to plastic waste is plastic beverage bottles, against which many countries have enacted laws. In this regard, does the Bureau need to spend a long time on consideration before it can decide whether or not to legislate against the sale of beverages or water in plastic bottles?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, to the best of our knowledge, other countries have not banned the sale of beverages in plastic bottles, but handled plastic waste through recycling. In this regard, we are conducting a study to prepare for the introduction of a producer responsibility scheme for plastic bottles. Once the scheme is launched, we believe the recovery volume of plastic bottles can be greatly increased. It is also the mainstream approach to handling waste plastic bottles in the world.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Improving the usage of bus-only lanes**

7. **MR FRANKIE YICK** (in Chinese): *President, in order to optimize the use of limited road resources, the Transport Department has all along been implementing measures which give priority to public transport modes over road use. Among them, the most commonly adopted measure is the designation of "bus-only lanes". However, some members of the public have relayed to me that during busy traffic hours, while the volumes of bus traffic on certain bus-only lanes are considerably low, the adjacent traffic lanes are extremely congested, thus causing a wastage of road resources. In this connection, will the Government inform this Council:*

- (1) *of the details of each bus-only lane in Hong Kong at present, including (i) the District Council district to which the lane belongs, (ii) the names of the road and road section on which the lane is located, (iii) the daily operating time, (iv) the length of the lane, (v) the daily average volume of bus traffic and vehicle speed, and (vi) how such average traffic volume and vehicle speed compare with the corresponding figures of the adjacent traffic lane(s) (set out in a table);*
- (2) *whether the authorities cancelled in the past five years the designation of a certain bus-only lane on the ground that the volume of bus traffic on the lane was below a certain level; if so, of the details;*
- (3) *as the last-term Government made an undertaking to me that it would study the conversion of bus-only lanes into "public transport-only lanes", so that the traffic lanes concerned would be open for use by other public service vehicles such as taxis and public light buses, whether the current-term Government has followed up such task; if so, of the results of the study; if not, the reasons for that; and*

- (4) *whether it has studied arrangements in overseas countries for and usage of public transport-only lanes; if so, of the details; if not, whether it will consider conducting the relevant study?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, Hong Kong residents mainly commute by public transport, which accounts for about 90% of the total passenger trips each day. To support the priority use of roads by public transport services so to benefit the public at large, the Transport Department ("TD") has been introducing bus-only lanes⁽¹⁾ and designating bus gates⁽²⁾ on appropriate roads. In pursuing such bus priority measures, TD will consider the actual road situation and traffic conditions, including the design of roads and junctions, the number of traffic lanes, the number of bus routes and bus service frequencies, the traffic volume of other types of vehicles, availability of alternative routes, the impact on the flow of other vehicles, etc., and will carefully assess the feasibility of such measures in order to strike a proper balance. TD will continue to keep in view the operation of bus-only lanes and designated bus gates after implementation, and review and enhance the arrangements of these facilities in a timely manner.

My reply to the various parts of Mr Frankie YICK's question is as follows:

- (1) Information on bus-only lanes and designated bus gates, viz. the District Council districts, locations and sections of the roads, restriction days and hours, applicable vehicle types and length, is set out in Annex 1 and Annex 2 respectively. TD has not compiled any statistics on the daily average volume of bus traffic and vehicle speed in respect of each bus-only lane and designated bus gate, and the average traffic volume and vehicle speed of the adjacent traffic lane(s).
- (1) Bus-only lane is a traffic lane designated for use by "franchised bus" or "franchised and non-franchised bus" only. Other vehicles have to make use of other traffic lanes next to the bus-only lane or other alternative routes.
- (2) Designated bus gate generally refers to a short section of bus-only lane that, while the road capacity is normally not affected, facilitates buses to access their destinations or change to other travelling routes more directly.

- (2) TD reviews from time to time traffic facilities on different road sections. Also, there are suggestions from the community (including individual District Council members) on the addition of bus-only lanes at various locations. In the past three years (from 2015 to 2017), TD extended the operation hours of six bus-only lanes and introduced a new bus-only lane, the details of which are in Annex 3. TD did not cancel any bus-only lane or designated bus gate in the past five years.

- (3) and (4)

Buses are road-based public transport mass carriers with the highest carrying capacity and can efficiently carry people to their destinations. To provide maximum convenience to bus passengers, the Government introduces bus-only lanes and designates bus gates so to reduce the chance of bus service schedules being affected by traffic congestions. For other public transport modes, the Government has also been designating taxi pick-up/drop-off points and, where traffic situations permit, relaxing some no-stopping restrictions for taxis and green minibuses to facilitate their operation and enhancement of service quality.

As regards the proposal of designating "public transport-only lanes" on busy roads for buses to share the use of such lanes with other public transport modes such as taxis and public light buses, TD will follow up and study the proposal, including making reference to the overseas experience. The study will also consider possible reduction of bus operation efficiencies on such lanes vis-à-vis the original bus lanes caused by additional traffic flow from, and picking up/dropping off activities of, other public transport vehicles. Furthermore, if "public transport only-lanes" are to be set up, the number of traffic lanes on the concerned road sections for use by other vehicles (e.g. goods vehicles and private cars) will be reduced, potentially affecting the traffic condition. Hence, TD has to study the proposal in detail and consult various stakeholders.

Annex 1

Bus-only Lane⁽¹⁾
(As at May 2018)

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
Hong Kong Island					
Central and Western	Connaught Road West westbound (between Tung Loi Lane and Hong Kong Macau Ferry Bus Terminus)	Daily	24 hours	Franchised buses	0.1
	Des Voeux Road Central westbound (between Man Wa Lane and Hillier Street)	Daily	24 hours	Franchised buses	0.1
	Man Yiu Street (between Man Kwong Street Roundabout and Central Ferry Pier Bus Terminus)	Daily	24 hours	Franchised buses	0.1
	Pok Fu Lam Road eastbound (between Mount Davis Road and Pok Fu Lam Road Playground)	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 09:00	Franchised and non-franchised buses	0.1
	Queensway westbound (between Murray Road and Jackson Road)	Daily	24 hours	Franchised buses	0.2
Wan Chai	Gloucester Road westbound (between O'Brien Road and Fenwick Street)	Daily	07:00 to 24:00	Franchised and non-franchised buses	0.2

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
	Cross-Harbour Tunnel Egress to Central westbound (between Tunnel Exit and Hung Hing Road)	Daily	24 hours	Franchised and non-franchised buses	0.1
	Canal Road Flyover underneath southbound (between Hennessy Road and Yiu Wa Street)	Daily	24 hours	Franchised buses	0.2
	Morrison Hill Road southbound (between Sports Road and Queen's Road East)	Mon to Fri (No restriction if that day is a public holiday)	16:00 to 19:00	Franchised and non-franchised buses	0.1
	Hennessy Road westbound (between Jardine's Bazaar and Lee Garden Road)	Daily	07:00 to 24:00	Franchised and non-franchised buses	0.1
	Hennessy Road westbound (between Tang Lung Street and Canal Road East)	Daily	07:00 to 24:00	Franchised and non-franchised buses	0.1
	Hennessy Road westbound (between Tin Lok Lane and Tonnochy Road)	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 09:00	Franchised and non-franchised buses	0.1
	Hennessy Road westbound (between Stewart Road and Fleming Road)	Daily	24 hours	Franchised buses	0.1
Eastern	Shau Kei Wan Road westbound (between Tai On Street and Tai Hong Street)	Daily	24 hours	Franchised buses	0.1

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
	Fu Yee Road southbound (between Cheerful Garden and Siu Sai Wan Road)	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 09:00	Franchised buses	0.1
	King's Road eastbound (between Ngan Mok Street and Fortress Hill Road)	Daily	24 hours	Franchised and non-franchised buses	0.8
	King's Road eastbound (between North Point Road and Tin Chiu Street)	Daily	24 hours	Franchised and non-franchised buses	0.7
	King's Road eastbound (between Man Hong Street and Java Road)	Daily	24 hours	Franchised and non-franchised buses	0.5
	Nam On Street eastbound (between Nam On Lane and Shau Kei Wan Bus Terminus)	Daily	24 hours	Franchised buses	0.1
	Siu Sai Wan Road westbound (between The Chinese Foundation Secondary School and Harmony Road)	Daily	24 hours	Franchised buses	0.1
Southern	Wong Chuk Hang Road westbound (between Aberdeen Tunnel Toll Plaza and Wong Chuk Hang Road near Grantham Hospital)	Mon to Fri (No restriction if that day is a public holiday)	16:00 to 20:00	Franchised and non-franchised buses	0.2

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
	Wong Chuk Hang Road eastbound (between Grantham Hospital and Aberdeen Tunnel Toll Plaza)	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 09:00	Franchised and non-franchised buses	0.5
	Wong Chuk Hang Road up-ramp to Aberdeen Tunnel northbound (between Shouson Hill Road and Aberdeen Tunnel Toll Plaza)	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 09:00	Franchised and non-franchised buses	0.5
	Wong Chuk Hang Road eastbound (near Nam Long Shan Road)	Daily	24 hours	Franchised buses	0.1
	Nam Long Shan Road southbound (between Wong Chuk Hang Road and Bus Terminus)	Daily	24 hours	Franchised buses	0.3
	Heung Yip Road eastbound near Nam Long Shan Road	Daily	24 hours	Franchised buses	0.1
Kowloon					
Yau Tsim Mong	Nathan Road southbound (between Playing Field Road and Bute Street)	Daily	07:00 to 19:00	Franchised and non-franchised buses	0.3
	Nathan Road southbound (between Fife Street and Nelson Street)	Daily	07:00 to 20:00	Franchised and non-franchised buses	0.2

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
	Nathan Road northbound (between Dundas Street and Nelson Street)	Daily	07:00 to 20:00	Franchised and non-franchised buses	0.3
	The slip road from Hong Chong Road southbound to Cross-Harbour Tunnel	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 10:00; 17:00 to 19:00	Franchised buses	0.2
	Hong Chong Road southbound (outside Cross-Harbour Tunnel Administrative Building)	Daily	24 hours	Franchised buses	0.3
	Hong Chong Road northbound (near Cross-Harbour Tunnel Toll Plaza)	Daily	24 hours	Franchised buses	0.1
	Cherry Street eastbound (from Palm Street to Tong Mi Road)	Daily	24 hours	Franchised and non-franchised buses	0.1
	Lai Chi Kok Road eastbound (from Arran Street to Nathan Road)	Daily	07:00 to 19:00	Franchised and non-franchised buses	0.1
	Nathan Road southbound (from near Shantung Street to near Hamilton Street)	Daily	07:00 to 20:00	Franchised and non-franchised buses	0.3
Sham Shui Po	Nam Cheong Street southbound (between Ap Liu Street and Yu Chau Street)	Daily	24 hours	Franchised buses	0.1

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
	Yen Chow Street northbound (between Yee Kuk Street and Lai Chi Kok Road)	Daily	24 hours	Franchised buses	0.1
	Nam Cheong Street southbound (from Woh Chai Street to Berwick Street)	Daily	07:00 to 24:00	Franchised and non-franchised buses	0.1
	West Kowloon Corridor eastbound (from Pei Ho Street to Tai Kok Tsui Road)	Mon to Fri (No restriction if that day is a public holiday)	07:30 to 09:00	Franchised and non-franchised buses	0.4
	Lai Chi Kok Road westbound (between Mei Lai Road and Kwai Chung Road)	Daily	07:00 to 24:00	Franchised buses	0.1
	Cheung Sha Wan Road eastbound (between Kwai Chung Road and Mei Lai Road)	Daily	07:00 to 24:00	Franchised buses	0.2
Kowloon City	To Kwa Wan Road southbound (between San Ma Tau Street and Chi Kiang Street)	Daily	08:00 to 10:00; 17:00 to 20:00	Franchised and non-franchised buses	0.3
	To Kwa Wan Road northbound (between Shek Tong Street and Chi Kiang Street)	Daily	08:00 to 10:00; 17:00 to 19:00	Franchised and non-franchised buses	0.3
	To Kwa Wan Road northbound (between Chi Kiang Street and Sheung Heung Road)	Daily	08:00 to 10:00; 17:00 to 20:00	Franchised and non-franchised buses	0.3

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
	Junction Road southbound (from Carpenter Road to Prince Edward Road West)	Daily	07:00 to 10:00; 16:00 to 19:00	Franchised and non-franchised buses	0.2
	Prince Edward Road East westbound (near Rhythm Garden)	Daily	24 hours	Franchised buses	0.1
	Shing Tak Street (between Ma Tau Chung Road and Fu Ning Street)	Daily	24 hours	Franchised and non-franchised buses	0.3
Wong Tai Sin	Hammer Hill Road southbound (between Lung Cheung Road and Choi Hung Road Roundabout)	Daily	07:00 to 24:00	Franchised buses	0.1
	Choi Hung Road eastbound (between Prince Edward Road East and 65 m south of Lok Sin Road)	Daily	07:00 to 24:00	Franchised and non-franchised buses	0.1
	Lung Cheung Road eastbound (near Wong Tai Sin MTR Station)	Daily	07:00 to 24:00	Franchised buses	0.3
Kwun Tong	New Clear Water Bay Road northbound (outside United Christian College)	Daily	24 hours	Franchised and non-franchised buses	0.1
	Lei Yue Mun Road southbound (from Block 1 to Block 8 of Sceneway Garden)	Daily	07:00 to 24:00	Franchised buses	0.2

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
New Territories					
Sha Tin	Che Kung Miu Road westbound	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 10:00; 16:00 to 19:00	Franchised and non-franchised buses	0.3
	Hung Mui Kuk Road southbound	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 10:00; 16:00 to 19:00	Franchised and non-franchised buses	1
	Lion Rock Tunnel Road westbound	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 10:00; 16:00 to 19:00	Franchised and non-franchised buses	0.8
	Siu Lek Yuen Road eastbound	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 10:00	Franchised and non-franchised buses	0.1
	Tate's Cairn Highway southbound	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 10:00	Franchised and non-franchised buses	0.2
	Tate's Cairn Highway slip road southbound (near Siu Lek Yuen Road)	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 10:00	Franchised and non-franchised buses	0.2
Tai Po	Tai Po Road—Yuen Chau Tsai eastbound	Mon to Fri (No restriction if that day is a public holiday)	07:00 to 10:00	Franchised buses	0.1
	On Po Road near On Tai Road	Daily	24 hours	Franchised buses	0.5

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
Tuen Mun	Tuen Mun Road eastbound (from Harrow International School to Sham Tseng Interchange)	Mon to Fri (No restriction if that day is a public holiday)	07:30 to 09:00	Franchised and non-franchised buses	9
	Tuen Mun Road southbound near Lam Tei	Daily	24 hours	Franchised buses	0.5
	Tuen Mun Road northbound near Lam Tei	Daily	24 hours	Franchised buses	0.2
	Sam Shing Street westbound	Daily	24 hours	Franchised buses	0.1
Yuen Long	Castle Peak Road westbound (between Yuen Long Hong Lok Road and Kik Yeung Road)	Daily	24 hours	Franchised buses	0.1
	Ma Miu Road southbound outside Yuen Long District Office Building	Daily	24 hours	Franchised buses	0.1
Kwai Tsing	Kwai Chung Road southbound (fronting Fung King House of Lai King Estate)	Daily	24 hours	Franchised buses	0.2
	Lai King Hill Road northbound (opposite Ching Lai Commercial Centre of Ching Lai Court)	Daily	24 hours	Franchised buses	0.1
	Fung Shue Wo Road eastbound (entry road to Tsing Yi Pier Public Transport Interchange)	Daily	24 hours	Franchised buses	0.1

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
	Tsing Yi Heung Sze Wui Road northbound (from Tsing Yi Bridge roundabout to Chung Mei Road)	Daily	24 hours	Franchised buses	0.1
Tsuen Wan	Cheung Pei Shan Road eastbound (next to Shing Mun Tunnel Bus-to-bus Interchange)	Daily	24 hours	Franchised buses	0.1
	Tai Ho Road southbound (near Tsuen Wan West MTR Station)	Daily	24 hours	Franchised buses	0.1
Sai Kung	Kai King Road westbound (entry road to Po Lam Public Transport Interchange)	Daily	24 hours	Franchised buses	0.1
	Po Shun Road northbound near the slip road leading to Tseung Kwan O Tunnel Road	Daily	24 hours	Franchised and non-franchised buses	0.1

Notes:

- (1) Bus-only lane is a traffic lane designated for use by "franchised bus" or "franchised and non-franchised bus" only. Other vehicles have to make use of other traffic lanes next to the bus-only lane or other alternative routes.
- (2) Less than 0.1 km is also regarded as 0.1 km

Annex 2

Designated Bus Gates⁽¹⁾
(As at May 2018)

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
Hong Kong Island					
Wan Chai	Gloucester Road westbound near Canal Road Flyover up-ramp	Daily	24 hours	Franchised and non-franchised buses	0.1
	Canal Road Flyover northbound exit to Cross Harbour Tunnel	Daily	24 hours	Franchised and non-franchised buses	0.1
	Hung Hing Road eastbound to Cross Harbour Tunnel portal	Daily	24 hours	Franchised and non-franchised buses	0.1
Kowloon					
Kowloon City	The right-hand lane of the slip road linking Lung Cheung Road westbound and Waterloo Road northbound	Daily	24 hours	Franchised and non-franchised buses	0.1
Yau Tsim Mong	The Chatham Road North slip road from Chatham Road North westbound to Hong Chong Road southbound	Daily	24 hours	Franchised and non-franchised buses	0.1
Sham Shui Po	Nam Cheong Street southbound from Berwick Street to Tai Po Road	Daily	24 hours	Franchised and non-franchised buses	0.1

<i>District Council District</i>	<i>Location</i>	<i>Restriction Day</i>	<i>Restriction Hours</i>	<i>Applicable Vehicle Type</i>	<i>Approximate Length⁽²⁾ (km)</i>
New Territories					
Sha Tin	The slip road of Hang Tai Road to Ma On Shan Road	Daily	24 hours	Franchised and non-franchised buses	0.1
Sai Kung	Po Hong Road northbound right turning onto Wan Lung Road	Daily	24 hours	Franchised buses	0.1
Tai Po	On Chee Road near On Po Road	Daily	24 hours	Franchised buses	0.1
North	San Wan Road near Landmark North	Daily	24 hours	Franchised buses	0.1
	Fanling Station Road near Fanling Station Playground	Daily	24 hours	Franchised buses	0.1
	Luen On Street right turning onto Wo Mun Street Regentville Bus Terminus	Daily	24 hours	Franchised buses	0.1
Tsuen Wan	Cheung Shan Estate Road West near Cheung Shan Estate Road East	Daily	24 hours	Franchised buses	0.1
Yuen Long	Access Road from Siu Sheung Road to Yuen Long Highway	Daily	24 hours	Franchised buses	0.1

Notes:

- (1) Designated bus gate generally refers to a short section of bus-only lane that, while the road capacity is normally not affected, facilitates buses to access their destinations or change to other travelling routes more directly.
- (2) Less than 0.1 km is also regarded as 0.1 km

Annex 3

Addition/Change of Bus-only Lane (from 2015 to 2017)

<i>Bus-only Lane</i>	<i>Restriction Hours</i>	<i>Progress</i>
To Kwa Wan Road southbound (between San Ma Tau Street and Chi Kiang Street)	The afternoon operation hours were extended from the period between 17:00 and 19:00 to the period between 17:00 and 20:00 daily; the morning operation hours remained unchanged	Implemented since 18 December 2015
To Kwa Wan Road northbound (between Chi Kiang Street and Sheung Heung Road)	The afternoon operation hours were extended from the period between 17:00 and 19:00 to the period between 17:00 and 20:00 daily; the morning operation hours remained unchanged	Implemented since 18 December 2015
Wong Chuk Hang Road westbound (between Aberdeen Tunnel Toll Plaza and Wong Chuk Hang Road near Grantham Hospital)	The operation hours were extended from the period between 16:00 and 19:00 to the period between 16:00 and 20:00 on Mondays to Fridays (no restriction if that day is a public holiday)	Implemented since 22 January 2016
The slip road from Hong Chong Road southbound to Cross-Harbour Tunnel	The operation hours were extended from the period between 07:00 and 10:00 to the periods between 07:00 and 10:00 and between 17:00 and 19:00 on Mondays to Fridays (no restriction if that day is a public holiday)	Implemented since 11 April 2016
Nathan Road southbound (between Fife Street and Nelson Street; and from near Shantung Street to near Hamilton Street)	The operation hours were extended from the period between 07:00 and 19:00 to the period between 07:00 and 20:00 daily	Implemented since 11 May 2016

<i>Bus-only Lane</i>	<i>Restriction Hours</i>	<i>Progress</i>
Nathan Road northbound (between Dundas Street and Nelson Street)	The operation hours were extended from the period between 07:00 and 19:00 to the period between 07:00 and 20:00 daily	Implemented since 11 May 2016
Heung Yip Road eastbound near Nam Long Shan Road	An additional 24-hour daily bus-only lane commenced operation	Implemented since 28 December 2016

The land supply option of tapping into developers' private agricultural land reserve in the New Territories

8. **MR ANDREW WAN** (in Chinese): *President, the Task Force on Land Supply ("Task Force") launched in April this year a five-month public consultation on 18 land supply options. One of the options is the "tapping into the private agricultural land reserve in the New Territories", which involves about 1 000 hectares of agricultural lands held by various major developers. The Task Force has recommended that the said agricultural lands be better utilized, through public-private partnership ("PPP"), to increase housing supply. In this connection, will the Government inform this Council:*

- (1) *of the number of agricultural lands currently held by various developers and, in respect of each land, the (i) area, (ii) location and (iii) name of the owner (set out such information by District Council ("DC") district and mark on a map the location of each land);*
- (2) *among the agricultural lands held by the various developers, of the respective areas and percentages of those with the planned uses as follows: agriculture, green belt, conservation area, country park and site of special scientific interest; the area and percentage of such agricultural lands which overlap with brownfield sites (set out such information by DC district);*
- (3) *whether the Government will recommend, during consideration of the planning applications for housing development on the said agricultural lands by the Town Planning Board, the imposition of height restrictions on buildings on such lands; if so, of the details;*

- (4) *as it has been reported that the Government has planned to earmark 1 000 hectares of agricultural lands for designation as "Agriculture Priority Areas" to implement a New Agriculture Policy, but there are currently 3 700 hectares of abandoned agricultural lands, whether the Government has put in place measures to ensure that the agricultural lands not currently held by developers will be used for agricultural development; and*
- (5) *whether the Government will conduct a freezing survey on the agricultural lands currently held by developers so as to prevent developers from hoarding more agricultural lands for developing such lands through PPP?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Task Force on Land Supply ("Task Force") is conducting a five-month public engagement exercise to lead a discussion in the community on the pros and cons and relative priority of, and making a compromise on, 18 land supply options, with a view to achieving the broadest consensus in the community concerning the land supply options and the strategy. One of the short-to-medium term options put forward by the Task Force is tapping into the potential of private agricultural land reserve in the New Territories through public-private partnership.

My reply to various parts of the question is as follows:

(1) and (2)

According to information available in the public domain provided by individual developers and the industry, it is estimated that major developers are holding no less than 1 000 hectares of agricultural land in the New Territories. The Government has no detailed information about these agricultural land, including the actual number, site area, distribution, planned uses, ownership, etc. It is believed that certain portion of the relevant land overlaps with various New Development Areas or brownfields.

- (3) According to the existing statutory town planning procedures, if the proposed land use of the planning application is consistent with that stipulated in the outline zoning plans, the relevant development has to comply with the development restrictions imposed by the plans on these sites, including height restrictions (if applicable). If the planning application concerns rezoning (such as rezoning for residential development), the Town Planning Board ("TPB") when processing the application will give due considerations to a host of factors including (i) whether the proposed use and development parameters would be in harmony with the surrounding areas, (ii) whether there will be adverse impact on the surrounding environment, traffic, visual and other relevant infrastructure, and (iii) public views, etc. Upon consideration, TPB will make decision on the planning application in accordance with the Town Planning Ordinance (Cap. 131). If the application is approved by TPB in full or in part, the future development will be confined by the development parameters (including gross floor area and number of storeys) as set out in the application.

Regardless of whether individual development projects would be taken forward through public-private partnership, the aforementioned town planning procedures will continue to apply.

- (4) Regarding the land currently designated as "Agriculture" zone on statutory town plans, if it is privately owned, whether the land is indeed used for agricultural purpose is a decision of the landowner.

To promote modernization and sustainable development of local agriculture, the Government has been implementing the New Agriculture Policy since 2016. This includes, among other initiatives, commissioning a consultancy study on Agricultural Priority Areas ("APAs") jointly overseen by the Food and Health Bureau and the Development Bureau. The study will identify relatively large areas of quality agricultural land and examine the feasibility of designating them as APAs. It will also recommend suitable policies and measures to provide incentives for putting

fallow agricultural land into long-term agricultural use thereby supporting the development of local agriculture. The study area will include active and fallow agricultural land, whether it is Government land or privately owned. The tendering of consultancy is currently underway and the study is expected to begin in the second half of 2018. Before the commencement of the study, it is difficult at this stage to estimate the area of land to be designated as APAs in future.

- (5) The right of private ownership of property is a right protected under Articles 6 and 105 of the Basic Law. In respect of privately owned agricultural land, as long as the use of the relevant land complies with the applicable regulations and land lease conditions, the Government has no grounds to restrict the use of such land through the "freezing surveys" suggested in the question.

The Task Force proposes public-private partnership as an option so as to explore a possible way out through unleashing the development potential of agricultural land in the short-to-medium term. The Task Force is of the view that the relevant discussion must be premised on the understanding that the Government would set up a fair, open and transparent mechanism in future. The Government will continue to listen carefully to the views of the community.

New accoutrements for the Police

9. **MS CLAUDIA MO** (in Chinese): *President, it has been reported that all of the three specialized crowd management vehicles (commonly known as "water cannon vehicles") purchased by the Police with a budget of \$27 million will be delivered to Hong Kong by the end of this month. In this connection, will the Government inform this Council:*

- (1) *of the implications of the introduction of water cannon vehicles on the Police's staffing establishment and operational arrangements, and the details of the public money involved;*

- (2) *whether the Police have completed the formulation of a code on the use of water cannon vehicles and guidelines for operating them; if so, of the details; if not, the reasons for that;*
- (3) *as some members of the public are worried about the abusive use of the water cannon vehicles by the Police, whether the Police will make reference to the practices of foreign countries and make public the code on the use of water cannon vehicles and guidelines for operating them, in order to enable the public to monitor the use of water cannon vehicles by the Police; if not, of the reasons for that; and*
- (4) *whether the Police, at present, have plans to acquire other new accoutrements for handling the various types of public events; if so, of the details?*

SECRETARY FOR SECURITY (in Chinese): President, Hong Kong residents enjoy the freedom of and the right to lawful assembly, procession and demonstration. The Police have been handling all public order events in a fair, just and impartial manner in accordance with the law of Hong Kong. It has been the established policy of the Police to endeavour to strike a balance between facilitating the smooth conduct of lawful and peaceful public meetings and processions on the one hand, while on the other, minimizing the impact of such events on members of the public and road users, as well as ensuring public order and public safety. The Hong Kong Special Administrative Region ("HKSAR") Government has been urging participants of public order events to remain law-abiding, peaceful and orderly when expressing their views and refrain from behaviour that is detrimental to public order or violent.

My reply to the various parts of the question is as follows:

(1) to (3)

Having reviewed their past experience, the Police considered it necessary to enhance the equipment for effectively handling large-scale and prolonged public assemblies that are held

simultaneously at various places and illegal behaviours that may occur on such occasions. The Police was granted funding in 2015-2016 for procuring three "specialized crowd management vehicles" ("SCMVs") with water spray devices in order to handle riots or illegal acts that may occur during large-scale and prolonged public assemblies more effectively.

SCMVs will be equipped with public address systems to effectively give advice, warnings or other messages to the protestors. The vehicles can also effectively disperse persons who stage violent charging acts, create a safe distance between these persons and police officers, reduce the chance of injury to them and police officers, and provide the Police with an additional operational option.

The first SCMV was delivered to Hong Kong in mid-May this year and the remaining two will be delivered within this month at the earliest. The vehicles will be first transferred to the manufacturer for assembly and the Electrical and Mechanical Services Department for examination to ensure that they are in compliance with the electrical and mechanical safety standards, and then delivered to the Police for testing and training. It is expected that the vehicles can be put into operation by the end of this year at the earliest.

Although overseas law enforcement agencies of such countries as France, Germany, Belgium and Korea have already used similar vehicles when handling large-scale public assemblies or riots, it is the first time SCMVs are introduced to Hong Kong. As such, we understand that the public may have concerns about SCMVs.

The HKSAR Government respects the public's rights and freedoms of peaceful assemblies, processions and expression of views, but participants of public order events, when expressing their opinions, must abide by the law, act in a peaceful and orderly manner, and refrain from any illegal or violent act. If there is any illegal act, violent act or act that is detrimental to public order and public safety, the Police have the responsibility to assess the circumstances at the

scene and exercise professional judgment, and take appropriate actions to ensure that public order and public safety remain unaffected.

Same as the principle of the Police's guidelines on the use of force, SCMV's shall only be used when it is absolutely necessary for the Police to achieve a lawful purpose. Police officers shall, before using such vehicles and when circumstances permit, give warning of their intention to use them, and the persons involved shall be given every opportunity, whenever practicable, to obey police orders. Police officers will definitely exercise restraint at all times when using such vehicles. The Police will cease using them once the purpose has been achieved.

The Police are now drafting the guidelines and training programmes for the use of SCMV's in a thorough and prudent manner so as to ensure that instructors and operators can have a firm grasp of the performance and operation of the vehicles and manoeuvre them effectively and safely to support operational deployments. The Police will require all operators to have received the relevant driving, operation and safety training before they operate the vehicles and strictly follow the code and guidelines concerned. Besides, the Police will arrange for the vehicle manufacturer to provide training and demonstration for the relevant officers and consider sending officers to some overseas countries to exchange experiences on the use of SCMV's with law enforcement agencies there.

The Police Tactical Unit will be responsible for staff training and arrangements in relation to SCMV's. Since the guidelines for the use of the vehicles involve operational details and the Police's tactical deployments, it is not appropriate for disclosure or else it may undermine the capability and efficacy of police operations.

- (4) According to the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, law enforcement agencies should develop a range of means and instruments as broad

as possible for handling different situations. The Police will from time to time review, procure and replace the accoutrements of police officers to ensure that various kinds of actual operational needs can be met.

Eligibility for receiving the Old Age Allowance

10. **MR LEUNG CHE-CHEUNG** (in Chinese): *President, regarding the eligibility for receiving the Old Age Allowance ("OAA"), will the Government inform this Council:*

- (1) *as the current eligibility criteria for OAA include the requirement that the applicant must have resided in Hong Kong continuously for at least one year immediately before the date of application, but those elderly people who have moved to reside in Guangdong or Fujian Provinces are not required to meet the requirement, whether it knows the number of Hong Kong elderly people residing in other provinces of the Mainland in each of the past three years who were ineligible for receiving OAA due to their failure to meet the requirement; and*
- (2) *whether it will consider afresh lowering the age threshold for receiving OAA from 70 to 65, and whether it has assessed (i) the number of elderly people aged between 65 and 69 to be benefited and (ii) the implication on the public expenditure, as a result of the implementation of this measure?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): *President, the current social security system (including the Comprehensive Social Security Assistance Scheme and various allowances under the Social Security Allowance ("SSA") Scheme) is non-contributory and entirely funded by the Government's general revenue, which involves substantial public funds. My reply to the Member's question is as follows:*

- (1) The non-means-tested Old Age Allowance ("OAA"; currently at \$1,345 per month) under the SSA Scheme provides cash allowance to eligible elderly persons aged 70 or above to meet their special needs arising from old age. There are pre-application residence requirements under the SSA Scheme, including the requirement that an applicant must have resided in Hong Kong for at least one year (with a grace period of 56 days in the year) immediately before the date of application (one-year continuous residence ("OYCR") in Hong Kong requirement). Separately, there is also residence requirement during receipt of allowance. The above requirements ensure that the relevant payments are only granted to Hong Kong residents who have a long-term connection with Hong Kong, so as to ensure long-term sustainability of the social security system.

The Government appreciates that some Hong Kong elderly persons, especially those who came to Hong Kong from the Mainland at a younger age, may choose to reside on the Mainland after their retirement. To provide assistance to these elderly persons, the Government launched the Guangdong Scheme and Fujian Scheme in October 2013 and April 2018 respectively to enable eligible Hong Kong elderly persons who choose to reside in Guangdong or Fujian to receive OAA without having to return to Hong Kong every year (to fulfil the residence requirement during receipt of allowance). The above arrangement is only applicable to eligible elderly persons residing in Guangdong and Fujian mainly because there are more Hong Kong people residing in these two provinces. In terms of geographical proximity and community bonding, elderly persons residing in Guangdong and Fujian could maintain a close connection with their relatives and friends in Hong Kong and more readily obtain support. Moreover, the two provinces are uniquely and closely connected with Hong Kong on the social, economic and transport fronts.

Under the above OYCR in Hong Kong requirement, elderly persons who have already resided in Guangdong or Fujian need to return to and stay in Hong Kong for one year in order to meet the eligibility criteria of the Guangdong Scheme/Fujian Scheme. To facilitate these elderly persons, the Government has implemented a special one-off arrangement under the Guangdong Scheme and Fujian

Scheme to allow applicants who have resided in Guangdong/Fujian continuously for one year (with a grace period of 56 days in the year) immediately before the date of application to benefit from the Guangdong Scheme/Fujian Scheme without the need to comply with OYCR in Hong Kong requirement, provided that they have met all other eligibility criteria. Under the Guangdong Scheme, the special one-off arrangement was introduced in the first year of implementation (i.e. from 1 October 2013 to 30 September 2014) and has been relaunched on 1 July 2017 (which will last until 30 June 2018). Under the Fujian Scheme, the special one-off arrangement is implemented in its first year (i.e. from 1 April 2018 to 31 March 2019).

Regarding Member's request for information, the Social Welfare Department does not maintain the number of Hong Kong elderly people residing in other provinces/municipalities of the Mainland who were ineligible for receiving OAA because of OYCR in Hong Kong requirement.

- (2) In view of an ageing population, the Government has to ensure prudent use of public funds in order to provide targeted support for needy elderly persons. According to the Census and Statistics Department's projection, excluding foreign domestic helpers, the number of elderly persons aged 70 or above would increase from about 0.77 million in 2016 by over a million to about 1.86 million in 2036. In 2066, the number of elderly persons aged 70 or above is projected to reach 2.18 million, which is about three times of that in 2016. In the face of a growing elderly population, the number of OAA beneficiaries and public funds involved would continue to increase. Having considered the sustainability of the social security system, the Government has no plan to lower the age requirement of OAA.

Statistics on organ/tissue transplant operations

11. **DR PIERRE CHAN** (in Chinese): *President, regarding the statistics on organ/tissue transplant operations, will the Government inform this Council whether it knows:*

- (1) *the respective numbers of donors and recipients in respect of the transplant operations, performed in public hospitals in each of the past 10 years on each kind of organs/tissues, including the transplants of liver (living, cadaveric), kidney (living, cadaveric), heart, cornea, skin, bone, bone marrow and lung;*
- (2) *the respective numbers of children and adults receiving various kinds of organ/tissue transplants, as well as the medical expenses incurred for each kind of organ/tissue transplant operations, in each of the past 10 years; and*
- (3) *the details of funding received, in each of the past 10 years, by the specialties/centres responsible for performing organ/tissue transplant operations at the Queen Mary Hospital, Prince of Wales Hospital, Pamela Youde Nethersole Eastern Hospital, Tuen Mun Hospital, Kwong Wah Hospital, Queen Elizabeth Hospital, Hong Kong Eye Hospital and Grantham Hospital?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to the various parts of Dr Pierre CHAN's question is as follows:

- (1) The numbers of human organ/tissue donations for transplant handled by the Hospital Authority ("HA") from 2008 to 2017 are tabulated below:

<i>Organ/ Tissue Donation (Case)</i>	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Kidney										
Cadaveric	65	87	74	59	84	70	63	66	60	61
Living	12	8	7	8	15	12	16	15	18	17
Kidney (total)	77	95	81	67	99	82	79	81	78	78
Liver										
Cadaveric	26	43	42	30	45	38	36	36	37	40
Living	42	41	53	44	33	34	27	23	36	34
Liver (total)	68	84	95	74	78	72	63	59	73	74

<i>Organ/ Tissue Donation (Case)</i>	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Other organs (Cadaveric)										
Heart	6	10	13	9	17	11	9	14	12	13
Double Lung	1	2	2	1	3	2	4	13	8	12
Single Lung	0	0	0	0	0	2	0	0	1	1
Cornea (piece)	211	203	250	238	259	248	337	262	276	367
Skin	19	17	23	21	6	4	9	10	10	11
Bone	1	0	6	0	3	3	1	4	1	3
Total	383	411	470	410	465	424	502	443	459	559

Note:

Cases of skin and bone transplant are spontaneous and urgent in nature. Substitutes will be used if suitable skin or bone is not available for transplant.

(2) and (3)

HA does not keep a statistical breakdown of organ/tissue recipients by age group.

HA's organ transplant service is provided in a team approach. Members of the team include Organ Donation Coordinators and multidisciplinary professionals from specialties such as Medicine, Intensive Care Unit, Surgery, Anaesthesia and laboratories. The scope of service covers care for organ recipients, identification of organ donors, life support for brain-dead patients, counselling for donors' families, organ transplant operations and post-operative care. Hence, separate breakdowns of expenditure on or funding for organ/tissue transplant operations for individual hospitals are not available.

Safety of workers carrying out maintenance and repair of building facilities on external walls of buildings

12. **MR SHIU KA-FAI** (in Chinese): *President, some suppliers of air-conditioning ("AC") facilities and practitioners of the AC works trade have relayed to me that the designs of some private buildings newly completed in recent years have not fully taken into account the needs of workers when they carry out replacement works and repair works for AC facilities on the external walls of such buildings in future. In this connection, will the Government inform this Council:*

- (1) *whether it is aware of the situation that although some private buildings have been installed with gondola working platform systems ("gondolas"), (i) the designs of the buildings concerned have failed to dovetail with the use of the gondolas in practice, resulting in a gondola being unable to reach the location for installation of the facility concerned, and (ii) there is still certain distance between a gondola and the facility on an external wall even if such location is reachable, resulting in the workers having to stretch their bodies out of the gondola in order to carry out the works which poses the risk of workers falling from heights; if it is, of the measures put in place by the Government to improve such a situation; if it does not, the reasons for that;*
- (2) *whether the Buildings Department has reviewed how far developers have complied with its Guidelines for Designing Access and Safety Provisions for the Maintenance and Repair of External Air Conditioners at Height issued in December 2016 and the effectiveness of the Guidelines; if so, of the outcome of the review; if not, whether it will conduct such a review expeditiously;*
- (3) *whether it will consider the suggestions put forward by the practitioners in the AC works trade of introducing legislation to stipulate that the designs of AC platforms on the external walls of a building to be built must:*
 - (i) *provide reasonable and adequate space for an AC facility to be placed flat on the platform,*

- (ii) *provide safe access for workers to enter and exit,*
 - (iii) *fit in with various tubes on the external walls, and*
 - (iv) *install with anchor devices (e.g. "eye bolt") at appropriate locations for workers to attach their safety belts; and*
- (4) *as the relevant legislation in Singapore stipulates that developers must take into primary and necessary consideration the needs of future maintenance and repair of building facilities when they draw up designs of buildings, whether the Government will (i) enact legislation to enforce similar requirements, and (ii) introduce common working platforms on external walls to provide workers with reasonable and adequate working space, thereby minimizing their risks of falling from heights?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Government attaches great importance to occupational safety for carrying out repair and maintenance works at external walls. Labour Department ("LD"), Buildings Department ("BD") and Construction Industry Council ("CIC") have issued guidelines on different aspects of external repair and maintenance of buildings.

In consultation with LD and BD, the Development Bureau provides a consolidated reply to the four parts of the question as follows:

- (1) External repair and maintenance works at buildings fall under the portfolio of occupational safety, such works should fulfil the requirements of the Occupational Safety and Health Ordinance (Cap. 509), Factories and Industrial Undertakings Ordinance (Cap. 59) and relevant subsidiary legislations so as to ensure workers' safety. For work safety related to external walls of buildings, LD has issued code of practices and guidance notes for the industry, setting out detailed requirements and measures for general work setting and circumstances. Duty holders should follow such codes of practice properly. As building design varies, contractors

or employers are responsible for conducting target risk assessment before commencing external repair and maintenance works of buildings, including duly consider the actual work setting and circumstances (such as the uniqueness of building design), so as to formulate appropriate safe methodologies, procedures and necessary safety measures to comply with statutory requirements. For the circumstances raised in the question, relevant departments have also through the industry gathered such views. Subject to the concerned circumstances, relevant departments will review the legislations, codes of practice and guidance notes from time to time to protect the occupational safety of workers.

- (2) With regards to the design of new buildings, BD has issued a circular letter to the industry in December 2016 promulgating guidelines for design access and safety provisions for the maintenance and repair of external air conditioners ("ACs") at height. The guidelines set out the requirements regarding adequate working spaces around ACs and appropriate access, etc. Upon issue of the guidelines, development projects with general building plans first approved by BD involving exemption of ACs platforms from the calculation of gross floor area should comply with the guidelines and provide relevant ancillary facilities. A working group was set up by BD, LD and the building industry in 2017 to review the guidelines for designing ACs platform to facilitate workers carrying out repair works safely. The working group also reviews the requirements for installing cast-in anchor devices on external walls to complement the use of safety belt. BD will consult the building industry later on the proposed revisions to the guidelines of ACs platform per the established procedures.

- (3) and (4)

Per the established policy, LD is responsible for the enforcement of the Occupational Safety and Health Ordinance (Cap. 509), Factories and Industrial Undertakings Ordinance (Cap. 59) and relevant subsidiary legislations. LD has all along been promoting the safety of repair and maintenance on external walls through inspections and

enforcement actions, etc. These legislations have stipulated the requirements for duty holders undertaking works-at-height (including works on external walls), including provision of safe working platforms for workers working at height with a view to safeguarding the occupational safety of them. For carrying out of external repair and maintenance of buildings, LD has also promulgated codes of practice and guidance notes for the industry, including Code of Practice for Bamboo Scaffolding Safety, Code of Practice for Safe Use and Operation of Suspended Working Platforms and Guidance Notes on Classification and Use of Safety Belts and their Anchorage Systems, etc. These codes of practice and guidelines help contractors and employers to understand and comply with the relevant legislative requirements. LD will review relevant codes of practices/guidance notes from time to time in order to meet changes in general working environment. On the other hand, to curb systemic safety risks at source more effectively through building design and management, LD will strengthen the engagement with project proponents of building works projects and urge relevant contractors to timely incorporate elements regarding work safety when considering construction methodologies and design during project design, preparatory stages and construction stages with a view to enhancing occupational safety and preventing accidents.

BD also reviews the subsidiary legislations under the Buildings Ordinance (Cap. 123) from time to time and proposes suitable amendments as necessary with a view to keeping abreast of latest building technology advancement and responding the industry's reasonable requests thus facilitating the industry to carry out building works per the law. BD is now looking into the legislative amendment of the Building (Construction) Regulations (Cap. 123B) including introduction of requirements to mandate provision of adequate safety facilities in building design to facilitate future repair and maintenance works on external walls. The direction of the legislative amendments will be on performance-based of each building to allow greater flexibility in building design and cater for the rapid building technology advancements instead of prescribing a

set of safety facilities to be applied to all buildings. According to this direction, when the amended regulations commence operation, BD will require Authorized Persons to provide information on the facilities for external repair of buildings, such as working platforms that conform with legislations relating to occupational safety and health, etc. Such facilities must be specified on the building plans for consideration and approval by BD for compliance with the proposed revised provisions. To complement the proposed amended regulations, BD is formulating guidelines on the design of access for repair and will consult the building industry per the established procedures later.

Besides, CIC issued a newly amended guidelines on the Design, Installation and Maintenance of Cast-in Anchors at External walls of New Buildings (Version 2) in November last year to enhance the safety of work-at-height on the external walls of buildings. The Task Force on Work Safety of Repair, Maintenance, Alterations and Additions Sites under the Committee on Construction Site Safety of CIC is exploring how best to enhance workers' safety when conducting external repair and maintenance works through building design and strengthening preventive and protective measures for existing buildings. Members of the task force encompass various stakeholders of the construction industry, as well as representatives of occupational safety and health associations, property management and the relevant government departments, including LD and BD.

Assisting the deaf/hard-of-hearing residents in residential care homes for the elderly

13. **MR LEUNG YIU-CHUNG** (in Chinese): *President, it is learnt that there are currently more than 150 000 deaf/hard-of-hearing persons in Hong Kong and over 80% of them are elderly persons (i.e. persons aged 60 or above). At present, a majority of residential care homes for the elderly ("RCHEs") have not put in place a policy which is friendly towards the deaf/hard-of-hearing elderly persons (such as providing sign language training to their staff, providing auditory training to their residents and installing fire alarm lights), making it*

difficult for the deaf/hard-of-hearing elderly persons to integrate themselves into the environment in RCHEs and to seek assistance when necessary. Some members of the public have pointed out that as the population of Hong Kong is ageing and most people's hearing will deteriorate with age, the Government should provide RCHEs dedicated for the deaf/hard-of-hearing elderly persons. In this connection, will the Government inform this Council:

- (1) whether it knows the number of deaf/hard-of-hearing residents in RCHEs in each of the past five years;*
- (2) whether it knows the number of RCHE staff members across the territory in each of the past five years who knew sign language, with a breakdown by type of RCHEs (i.e. subvented homes, contract homes, non-profit-making self-financing homes and private homes) in which they worked;*
- (3) whether it has implemented a policy under which arrangements are made for the deaf/hard-of-hearing elderly persons to reside centrally in RCHEs with facilities and services that are friendly to the deaf/hard-of-hearing elderly persons; if so, of the details; if not, the reasons for that, and whether it will implement such a policy and set up such type of RCHEs;*
- (4) whether it has put in place a policy to assist the deaf/hard-of-hearing residents in RCHEs in improving their social life; if so, of the details; if not, the reasons for that, and whether it will implement such a policy; and*
- (5) as some deaf/hard-of-hearing residents in RCHEs have relayed that because they are unable to communicate with those RCHE staff who do not know sign language, they cannot obtain the necessary assistance immediately when they feel unwell and have urgent needs, whether the authorities have put in place a policy to assist such residents, including providing sign language training to RCHE staff; if so, of the details; if not, whether it will implement such a policy?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to the Member's question is as follows:

- (1) The Social Welfare Department ("SWD") does not have information on the number of elderly persons with hearing impairment residing in residential care homes for the elderly ("RCHEs").
- (2) SWD does not have information on the number of RCHE staff who know sign language.
- (3) and (4)

SWD has since 2003 implemented the Central Waiting List mechanism to collectively process applications from elderly persons for subsidized long-term care services and service matching. Applicants have to be assessed under the Standardised Care Need Assessment Mechanism for Elderly Services, and the accredited assessors adopt an internationally recognized assessment tool known as "Minimum Data Set—Home Care" to comprehensively assess the impairment level in the elderly persons' abilities to take care of themselves, physical functioning, memory and communication skills, behaviour and emotion, etc., as well as their health conditions, the environmental risk they may face and whether they could cope with these issues in their daily lives, with a view to identifying their care needs and matching them with appropriate services.

Hearing is one of the factors in assessing the communication skills of elderly persons. After elderly persons have been allocated an RCHE placement, SWD will forward the assessment results to RCHEs concerned so as to facilitate their professional teams to formulate appropriate individual care plans and provide appropriate support and counselling services for those in need. Representatives of RCHEs will also meet with the elderly persons before admission to further understand their care needs and enhance their individual care plans.

At present, SWD provides subsidized residential care services for the elderly under an integrated approach, thereby enabling elderly persons of different physical conditions to receive continuous care.

The facilities of subvented and contract RCHEs (e.g. hearing aids) can cater for the care needs of elderly persons with hearing impairment. Separately, elderly persons receiving Comprehensive Social Security Assistance (including those residing in RCHEs) may, subject to medical recommendation, apply for special grants to cover the costs for purchasing the necessary assistive devices (including hearing aids).

- (5) According to the prevailing requirements, an RCHE shall be provided with a fire detection system and a fire alarm system; and apart from audio warning devices, visual alarm signals shall be installed to form part of the fire alarm system. Besides, an RCHE shall install a call bell at the bedspace of each resident requiring a high level of care, as well as in toilet cubicles and bathrooms, for residents to seek assistance immediately when necessary.

SWD has all along provided RCHE staff with training courses on taking care of elderly persons with special needs. SWD is planning to organize in 2018-2019 a training course for RCHE staff on taking care of residents with hearing impairment, with a view to enhancing their awareness and skills in this aspect.

Improving the transport connectivity between Lantau Island and the urban areas

14. **MR HOLDEN CHOW** (in Chinese): *President, some members of the transport sector have relayed that with the continuous growth in the population of Tung Chung in recent years, coupled with the imminent commissioning of the Hong Kong-Zhuhai-Macao Bridge ("HZMB"), it is expected that the traffic in North Lantau will become busier day by day. Moreover, the road traffic between the Lantau Island/airport and the urban areas will be paralyzed whenever a traffic incident has occurred on the North Lantau Highway and the Lantau Link. On the other hand, the Journey Time Indication Systems ("JTISs") currently neither cover all trunk roads nor provide important information such as the occurrence of traffic incidents on the road ahead, rendering drivers often unable to switch in time to roads with smoother traffic. In this connection, will the Government inform this Council:*

- (1) *given that the passenger throughput of the MTR Tung Chung Line is already close to its maximum capacity during peak hours, and passengers departing from and arriving at Hong Kong via HZMB upon its commissioning will add a burden on the Tung Chung Line, whether the authorities will request the MTR Corporation Limited to increase the train frequency of the Tung Chung Line by that time; if so, of the specific arrangements and timetable;*
- (2) *whether the Transport Department will (i) study the provision of additional information by JTISs such as the occurrence of traffic incidents on the road ahead, and (ii) install JTISs along the various trunk roads (including Lung Cheung Road) connecting with the Lantau Link and at both ends to the Western Harbour Crossing; and*
- (3) *whether it will consider providing ferry services plying the urban areas from the Skypier and Tung Chung Development Ferry Pier whenever a traffic incident has occurred on the North Lantau Highway and the Lantau Link?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Emergency Transport Co-ordination Centre ("ETCC") of the Transport Department ("TD") monitors traffic conditions 24-hour a day. Its task is to liaise and coordinate among government departments, public transport operators and relevant organizations on the handling of traffic incidents. It also disseminates to the public the latest traffic arrangements associated with the incidents concerned.

In view of the imminent commissioning of the Hong Kong-Zhuhai-Macao Bridge, ETCC will continue to monitor traffic conditions closely, and coordinate arrangements having regard to the actual situation in a timely manner.

My reply to the various parts of Mr Holden CHOW's question is as follows:

- (1) The MTR Corporation Limited ("MTRCL") has been paying close attention to the services and passenger demand of Tung Chung Line, and will make appropriate adjustments where necessary to address

the demand along busy sections of Tung Chung Line. To cater for the large number of passengers at Tsing Yi Station and Nam Cheong Station heading to Hong Kong Station during morning peak hours on weekdays, MTRCL has deployed two additional departures this year operating directly from Tsing Yi Station to Hong Kong Station to alleviate crowding situation on trains. Moreover, through adjusting train services, MTRCL has evened out the train service headways departing from Tung Chung Station and Tsing Yi Station. At present, the Tung Chung Line train services are operating at a headway of about four minutes (Hong Kong to Tsing Yi) and six to eight minutes (Hong Kong to Tung Chung) on average during morning peak hours. According to MTRCL, the train services are now operating smoothly and can meet passenger needs.

In addition, MTRCL is progressively replacing the signalling system for seven railway lines (namely Tsuen Wan Line, Island Line, Kwun Tong Line, Tseung Kwan O Line, Disneyland Resort Line, Tung Chung Line and Airport Express Line). With the full completion of the signalling system upgrading works in 2026, the overall carrying capacity of these seven MTR lines can be increased by around 10%.

- (2) There are currently 10 sets of Journey Time Indication Systems ("JTISs") and five sets of Speed Map Panels Systems in Hong Kong. JTISs are installed at critical diversion points of cross-harbour routes (including routes leading to the Western Harbour Crossing) to inform motorists of the estimated journey time from the diversion points to the exit portals of the respective cross-harbour tunnels. On the other hand, Speed Map Panels are installed at critical diversion points of strategic routes in the New Territories heading to Kowloon, using different colours on the panel to indicate real-time traffic conditions on the roads ahead and the estimated journey time. Apart from this, TD has installed variable message signs on strategic routes leading to the Lantau Link, including the section of West Kowloon Highway after the Western Harbour Crossing (Kowloon Exit), Tsing Kwai Highway, Tuen Mun Road, Stonecutters Bridge and Ting Kau Bridge, so as to disseminate traffic information to motorists in the form of text messages when traffic congestion occurs on the Lantau Link and Ting Kau Bridge.

To further enhance the dissemination of traffic information, TD is planning to install about 1 150 sets of traffic detectors on strategic routes and major roads, as well as an addition of 16 sets of JTISs at critical diversion points of strategic routes, including an additional set of JTIS each on the West Kowloon Highway, Long Tin Road and Hung Tin Road and enhance the set of Speed Map Panel on San Tin Highway so as to provide more traffic information on journeys to the airport. The installation works will be carried out in phases, some of which will be commissioned in end 2018 at the earliest. The whole project is expected to be completed by end 2020.

- (3) In case of serious obstructions on the North Lantau Highway or Lantau Link, TD will contact MTRCL immediately and make a request for strengthening train services on the Airport Express and Tung Chung Line so as to address the passenger demand. Upon discussion with the Government, MTRCL agreed to enhance the services of Tung Chung Line and Airport Express within a short time in case of emergency so as to address the passenger demand between North Lantau or the airport and urban areas.

In the event that both road links and the railway lines are obstructed, TD will mobilize ferries to provide transport services. ETCC of TD will liaise with public transport service operators and the Airport Authority Hong Kong ("AAHK") for coordination. Subject to actual circumstances (including the resource deployment by operators, time of incident and its duration), ETCC will request ferry operators to endeavour to enhance ferry services (including the "Tuen Mun—Tung Chung", "Central—Discovery Bay" and "Central—Mui Wo" routes). The frequencies of feeder bus services serving the piers of the above routes will also be increased to facilitate travel to and from the airport, Lantau Island and urban areas for those switching to existing ferry services and feeder bus services. Additionally, TD has signed an emergency ferry services agreement with the Hong Kong & Kowloon Motor Boats & Tug Boats Association Ltd ("MBTA"). In case of a serious incident on North Lantau Highway or Tsing Ma Bridge, or full closure of either of the two causing prolonged obstruction to road traffic, MBTA will provide emergency ferry services between Tung Chung

Development Pier and Tsuen Wan West Pier/Disneyland Resort Pier. Where necessary and practicable, the Government will also consider using the SkyPier for providing emergency ferry services plying to and from Central Pier and Tuen Mun Ferry Pier to ease the flow of passengers. However, since the external transport links of Lantau Island and the airport have mainly been two land-based mass transit carriers, namely the railway and franchised buses, the role of waterborne transport as an alternative in case of full closure of land links is rather limited given the constraints of capacity and speed of ferries. Notwithstanding that, the Government will continue to cooperate closely with all relevant emergency units with a view to minimizing the inconvenience caused to passengers and other members of the public.

For more effective dissemination of information, TD will promptly inform the public of any traffic incident on Lantau Link and North Lantau Highway, and the latest updates on traffic conditions and public transport services on radio and television and via the websites and mobile phone applications of both the Department, major public transport service operators (including franchised bus companies and MTRCL) and AAHK. This will enable the public to plan their journeys early or consider switching their routes or travelling modes. TD will also make use of the variable message signs installed at Tsing Ma Control Area, Tsing Sha Control Area and other trunk roads, and the radio rebroadcasting system in road tunnels to alert drivers to the latest updates on traffic incidents.

Plans for increasing public hospital beds

15. **MR JIMMY NG** (in Chinese): *President, it is learnt that all public hospitals experience an overflow of patients every year when Hong Kong enters an influenza peak season. It has been reported that since 1997, the total number of public hospital beds has increased only slightly by 2.9%, which is far lower than the 11% growth of Hong Kong's population during the same period. This, coupled with the increasing demand for medical services arising from an increasingly ageing population, has resulted in a persistent short supply of public hospital beds. In this connection, will the Government inform this Council:*

- (1) *of the authorities' plans to increase public hospital beds and construct new hospitals in the coming five years and the latest progress of such plans (including the timetable), as well as how such plans will address the increased healthcare needs brought about by the ageing population in Hong Kong; and*
- (2) *as the "Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030" projects that special medical facilities (including a Chinese medicine hospital and testing centre) will, in addition, take up about five hectares of land, of the criteria and assumptions adopted by the Government in arriving at that projected figure on land demand, and the relevant details?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, having consulted the Development Bureau, my reply to the various parts of the question raised by Mr Jimmy NG is as follows:

- (1) In the recent years, a number of hospital redevelopment, expansion and development projects have been completed and put into operation including the development of North Lantau Hospital, Tin Shui Wai Hospital, Main Clinical Block and Trauma Centre of Prince of Wales Hospital, Ambulatory Care Block of Tseung Kwan O Hospital, phase 2 redevelopment of Caritas Medical Centre and redevelopment of Yan Chai Hospital. Hong Kong Children's Hospital is scheduled to commence service by phases from the fourth quarter of 2018.

To cater for the growing health care service demand and to improve existing services, \$200 billion has been earmarked for the Government and the Hospital Authority ("HA") to implement the first ten-year Hospital Development Plan ("HDP") in 2016. The first ten-year HDP covers the construction of a new acute hospital, redevelopment and expansion of 11 hospitals, construction of three community health centres and one supporting services centre. In terms of deliverables, the first ten-year HDP will provide around 5 000 additional beds, 94 additional operating theatres, 30

haemodialysis day beds, three oncology centres and one state-of-the-art neuroscience centre, and also increased capacity of specialist outpatient clinics and general outpatient clinics.

In response to the increasing demand for health care services due to demographic changes, the Government has invited HA to start planning the second HDP. In formulating the second HDP, HA will take into account a number of factors, including demographic changes, service utilization and changes in service delivery models of each district, with a view to having a comprehensive projection of the future demand for public health care services, including the demand for hospital beds.

Besides, HA will continue to provide additional beds for existing and newly completed hospitals through its annual plan. HA has provided 250, 231 and 229 new beds in 2015-2016, 2016-2017 and 2017-2018 respectively. To meet the growing demand arising from the growing and ageing population, HA will open a total of 574 additional beds in 2018-2019.

HA will regularly monitor and review the utilization rates and demand trend of various health care services. It will also enhance the service capacity, undertake hospital development projects and implement other suitable measures to ensure that public health care services can meet the public needs.

- (2) Medical facilities occupy mainly "Government, Institution or Community" ("G/IC") land. The estimates on the future G/IC land requirement in "Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030" ("Hong Kong 2030+") are mainly categorized into two broad types. The first is the major special facilities, which are those facilities supported by specific policies and are not tied to population level according to the Hong Kong Planning Standards and Guidelines ("HKPSG"). These land requirements are provided by relevant Policy Bureaux. Table 3-1 of the topical paper "Consolidated Land Requirement and Supply Analysis" ("Topical Paper"), prepared for Hong Kong 2030+,

summarizes the land requirement assessment regarding these major special facilities. Medical facilities in the table mainly include Chinese medicine hospital and testing and quarantine facilities as mentioned in the question. The link to the Topical Paper is as follows:

<http://www.hk2030plus.hk/document/Consolidated%20Land%20Requirement%20and%20Supply%20Analysis_Eng.pdf>

The second type is population-based facilities, which generally refer to those having population-based requirements under HKPSG, including schools, district recreational facilities, medical facilities, etc. For these facilities, we mainly adopted the land/person ratio to estimate their future land requirements. With reference to the recommended planned provisions of relevant facilities for the Kwu Tung North New Development Area, a 3.5 sq m land/person ratio is adopted in the aforementioned Topical Paper. The estimated G/IC land requirement calculated according to the above ratio is about 343 hectares, including population-based medical facilities, such as the land requirement arising from general hospitals, clinics and community health centres.

Security requirements for cabin baggage at the Hong Kong International Airport

16. **MR KENNETH LEUNG** (in Chinese): *President, pursuant to the guidelines of the International Civil Aviation Organization, the Hong Kong International Airport has implemented new security requirements for cabin baggage since 21 March 2007. Such requirements include: all travellers carrying liquids, gels and aerosols should have them carried in containers with a capacity not greater than 100 ml; any container with a capacity greater than 100 ml, even if it is not fully filled with the aforesaid articles, will not be accepted. Travellers who carry with them articles which do not meet the aforesaid requirement must follow the instructions of security screening officers at the security screening check point by either discarding such articles or checking in the baggage concerned before they may pass the security screening. In this connection, will the Government inform this Council:*

- (1) *of the number of cases in each of the past five years in which travellers insisted on carrying on board an aircraft articles which did not meet the aforesaid requirement; the procedure followed by security screening officers in handling such cases;*
- (2) *whether the travellers mentioned in (1) committed any criminal offence; if so, of the penalty concerned, as well as the respective numbers of prosecutions and convictions in each of the past five years and the penalties imposed on the convicted persons; and*
- (3) *whether a mechanism is in place to (i) ensure that security screening officers perform duties pursuant to the law and (ii) review the workflow at the security screening check point on a regular basis to ensure that there is no security loophole; if so, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President, the Government attaches great importance to the aviation security at the Hong Kong International Airport ("HKIA"). According to the requirements of the International Civil Aviation Organization ("ICAO"), all liquids, aerosols and gels ("LAGs") carried by passengers shall be contained in containers with capacity not exceeding 100 ml. Any container with a capacity greater than 100 ml, even if it is only partially filled with LAGs, must not be brought into the restricted area of the airport. The requirement is applicable to HKIA, and the Airport Authority Hong Kong ("AAHK") is responsible for its implementation, to ensure that LAGs carried by all passengers comply with the said requirement.

Based on the information provided by the Civil Aviation Department ("CAD") and AAHK, my reply to Mr Kenneth LEUNG's question is as follows:

- (1) and (2)

AAHK, responsible for the operations of HKIA, shall ensure that the cabin baggage carried by all departing passengers complies with the relevant security requirements of ICAO. If a passenger is found carrying any container with a capacity exceeding 100 ml with LAGs

inside, the security personnel will take out the relevant item, display to the passenger an information sheet containing the relevant security requirement, and advise the passenger how the item may be handled, including disposal at the scene or returning the item to the airline's check-in counter for checking in as hold baggage, etc., and the passenger should not be allowed to carry such an item into the restricted area of the airport. This security requirement is a direction given by the Director-General of Civil Aviation to AAHK pursuant to section 37(1)(a) of the Aviation Security Ordinance (Cap. 494). AAHK must implement it as required by the law. For the incident on 21 May 2018, CAD has requested AAHK to submit a report, so as to ensure LAGs carried by all passengers fulfil the requirement of ICAO, and prevent recurrence of similar incidents. According to the information provided by AAHK and its subsidiary, the Aviation Security Company Limited ("AVSECO"), there was no record of other similar incidents in the past five years.

- (3) For any aviation security-related incident at the airport, AVSECO as the aviation security service provider at the airport will conduct investigation and submit a report to AAHK, including whether human errors were involved, and how the case was handled. Upon examination of the report, AAHK will submit a report to CAD, including recommendations and improvement measures to prevent recurrence of similar incidents. CAD will also proactively initiate audits on compliance with the aviation security requirements. If it is discovered that an organization does not fully fulfil the security requirements issued by CAD, the latter will require the organization to submit and implement improvement plans.

Protection for flexible workforce

17. **MR CHARLES PETER MOK** (in Chinese): *President, it has been reported that the "Gig economy" has become increasingly popular in recent years. Quite a number of people have switched to freelancing and taken up jobs through Internet platforms or applications. A study has pointed out that Hong Kong's flexible workforce (i.e. temporary employees, part-time employees,*

self-employed persons/freelance workers, etc.) has grown substantially in the past 10-odd years. However, flexible workers are subject to a greater risk of unemployment, lower employment income and more inferior labour benefits and protection, as compared with permanent employees. In this connection, will the Government inform this Council:

- (1) of the number of complaints received by the Labour Department in the past three years, which were made by flexible workers because their labour rights and interests had been undermined, and the respective numbers of related prosecutions and convictions;*
- (2) whether it has compiled statistics on the current size of population taking up flexible jobs, as well as the occupation distribution, average number of working hours per week, average monthly income, and entitlements to labour benefits and protection (including paid sickness days and annual leave, holiday pay, employees' compensation insurance policies and the contributions made by employers to their Mandatory Provident Fund scheme accounts) of those people; and*
- (3) given that the governments of a number of places (including the European Union, the United Kingdom, the United States, Singapore, etc.) have started to study and implement systems for protecting freelance workers, whether the authorities will, by making reference to the practices of such governments, amend the Employment Ordinance (Cap. 57) and other relevant legislation to enhance the protection for flexible workers, as well as conducting relevant studies and public consultations?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Employment Ordinance ("EO") serves to provide for the protection of the employment conditions of employees. Employees covered by EO, irrespective of their hours of work, are entitled to certain fundamental protection under the Ordinance. For temporary employees, part-time employees and self-employed persons/freelance workers mentioned in the question, temporary employees and part-time employees are those in the status of employees and are entitled to the

rights and benefits under EO when the relevant eligibility criteria are met. As regards self-employed persons/freelance workers who are not employees, EO is not applicable. In determining whether a person is an employee or not, it does not hinge solely on the label of the post or contract concerned, but is subject to the actual circumstances of providing the services.

My reply to the Member's question is as follows:

- (1) Since self-employed persons/freelance workers are not employees, the Labour Department ("LD") does not keep statistics on their complaints. Furthermore, as the statistics on complaints and prosecutions in respect of employees whose employment rights and benefits are infringed maintained by LD do not have further breakdowns by employees' working hours or employment period, relevant statistics concerning temporary employees or part-time employees are not available.
- (2) For temporary employees and part-time employees, the Census and Statistics Department ("C&SD") provides the number of part-time employees by industry as well as their median hours of work and median monthly employment earnings in accordance with the results of the General Household Survey ("GHS") for the first quarter ("Q1") of 2018 at the Annex. Such survey does not have information on temporary employees.

For self-employed persons/freelance workers, C&SD provides the number of self-employed persons by industry as well as their median hours of work and median monthly employment earnings in accordance with the results of the above mentioned survey at the same Annex.

GHS does not collect information on such labour benefits and protection as paid sick leave and annual leave, holiday work salary, labour insurance and contributions under the mandatory provident fund ("MPF") schemes by employers pertaining to self-employed persons and part-time employees. On the other hand, according to the information provided by the Mandatory Provident Fund Schemes

Authority ("MPFA"), as some members of the workforce, such as regular employees who have been employed for less than 60 days, are exempt from joining MPF schemes, the statistics on MPF contributions maintained by MPFA do not cover all temporary employees, part-time employees and self-employed persons/freelance workers in Hong Kong.

- (3) The Government reviews EO from time to time having regard to social changes and the pace of economic development, with a view to improving the statutory rights and benefits of employees progressively.

Under EO, employees who are employed under a continuous contract and have fulfilled the relevant conditions stipulated in the Ordinance are entitled to a series of employment benefits such as rest days, paid statutory holidays, annual leave, sickness allowance, severance payment and long service payment, etc. While temporary employees and part-time employees are in the status of employees, they are accorded certain fundamental protection under EO even if they are not employed under a continuous contract. This includes payment of wages, restrictions on wage deductions, entitlement to statutory holidays and protection against anti-union discrimination, etc. In addition, the Employees' Compensation Ordinance provides for compensation payable to employees who sustain work injuries or suffer from prescribed occupational diseases, regardless of their hours of work or duration of employment. The Minimum Wage Ordinance also accords the protection of statutory minimum wage to employees within its coverage.

As regards self-employed persons/freelance workers, we note that concerns about their working conditions are still subject to exploration and deliberation in other places and a more comprehensive and systematic mode of protection is yet to be developed. Given this, it is difficult for the time being to make any methodical comparison or reference on the matter. At present, the Government has no plan to expand the scope of EO.

Annex

Table 1: Self-employed persons⁽²⁾ and part-time employees⁽³⁾ by industry⁽¹⁾ as well as their median hours of work⁽⁴⁾ and median monthly employment earnings⁽⁵⁾ (excluding foreign domestic helpers), Q1 2018

<i>Industry</i>	<i>Self-employed persons</i>	<i>Part-time employees</i>
	<i>No.</i>	<i>No.</i>
Manufacturing	2 500	6 200
Construction	17 600	30 300
Import/export trade and wholesale	18 100	18 000
Retail, accommodation ⁽⁶⁾ and food services ⁽⁷⁾	25 600	85 400
Transportation, storage, postal and courier services, information and communications	51 300	31 200
Financing, insurance, real estate, professional and business services	43 200	38 600
Public administration, social and personal services	56 200	77 100
Other industries	1 900	700
All industries	216 400	287 500
Median hours of work (hours)	40	20
Median monthly employment earnings (HK\$)	15,000	5,200

Notes:

Figures of persons and median monthly employment earnings are rounded to the nearest hundred.

Figures may not add up to the totals due to rounding.

Figures less than 3 000 persons are compiled based on a small number of observations and hence with relatively large sampling errors and should be interpreted with caution.

- (1) Industry refers to the activity of the establishment in which the respondent worked during the seven days before enumeration. The General Household Survey currently follows the major industry groups of the Hong Kong Standard Industrial Classification V2.0.

- (2) Self-employed person refers to a person who works for profit or fees in his/her own business/profession, neither employed by someone nor employing others.
- (3) Part-time employees refer to those who worked less than 35 hours with reasons other than on vacation during the seven days before enumeration, including those who are underemployed.
- (4) Hours of work refer to the number of hours which an employed person actually worked in all employment during the seven days before enumeration. All paid and unpaid hours worked at the place of work are included, but meal breaks are excluded.
- (5) Monthly employment earnings refer to earnings from all jobs during the month before enumeration. For employees, they include wage and salary, bonus, commission, tips, housing allowance, overtime allowance, attendance allowance and other cash allowances. However, back pays are excluded. For self-employed persons, they refer to amounts drawn from the self-owned enterprise for personal and household use. If information on the amounts drawn for personal and household use is not available, data on net earnings from business would be collected instead.
- (6) Accommodation services cover hotels, guesthouses, boarding houses and other establishments providing short term accommodation.
- (7) The retail, accommodation and food services industries as a whole is generally referred to as the consumption- and tourism-related segment.

Source: General Household Survey, Census and Statistics Department

Quality of drinking water in public rental housing estates

18. **MR PAUL TSE** (in Chinese): *President, after a number of drinking water samples taken from a number of public rental housing estates were tested and found in July 2015 to have a lead content exceeding the provisional guideline value set by the World Health Organization ("lead in drinking water incident"), the fresh water mains in a number of housing estates (including Lower Ngau Tau Kok Estate) have been comprehensively replaced. However, a number of residents of Lower Ngau Tau Kok Estate have recently complained to me, claiming that the quality of the drinking water supplied to their units was poor. Based on my on-site observation, the drinking water is turbid and foamy and even looks like cappuccino when put in a coffee cup. It is learnt that the residents of that estate have repeatedly enquired with the contractor engaged for the replacement of the fresh water mains and the Housing Department about the reasons for the drinking water being turbid and foamy, but the personnel concerned merely replied that the drinking water of that estate was of normal*

quality and advised the residents to run the tap for about half an hour every day before using the water for drinking. On the other hand, rainfall to date this year has been lower than that in previous years, resulting in low water storage and dry bottoms of some reservoirs. The Water Supplies Department also calls on members of the public from time to time to conserve water. In this connection, will the Government inform this Council:

- (1) whether it has studied the causes for the drinking water in Lower Ngau Tau Kok Estate being turbid notwithstanding the fresh water mains therein have been comprehensively replaced;*
- (2) whether the authorities, following the replacement of fresh water mains for a number of estates in light of the lead in drinking water incident, have conducted regular sample tests on the quality of drinking water therein; if so, of the details, and set out the sampling dates and test results by name of estate; if not, the reasons for that; whether the authorities received complaints in the past three months about turbidity of drinking water in other estates;*
- (3) whether it has assessed, in the event that all of the households of Lower Ngau Tau Kok Estate follow the advice to run the tap for half an hour every day before using the water for drinking, (i) the increase in the daily water consumption of that estate, (ii) the increase in the monthly water charge payable by each household on average, and (iii) whether the drying up of reservoirs will be exacerbated; whether it has assessed, when households of other estates who face the same situation of drinking water being turbid and foamy run the tap for half an hour every day before using the water for drinking, if the water consumption will increase substantially and result in the Government having to spend more public money on purchasing Dongjiang water in the next agreement on the supply of Dongjiang water to Hong Kong; and*
- (4) as the advice of running the tap for half an hour before using water is contrary to the Government's advice to conserve water, and members of the public are caught in a dilemma, how the authorities solve the hygiene problem of drinking water?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, since March 2016, the contractors of the Hong Kong Housing Authority ("HA") have been carrying out replumbing works to replace sub-standard water pipes for the 11 affected public rental housing estates, including the Lower Ngau Tau Kok ("LNTK") Estate Phase 1. The replumbing works comprise two parts, namely those in the communal areas and those inside individual flats. All the works in the communal areas were completed in the second quarter of 2017. At present, the contractors are replacing water pipes inside individual flats and have completed about 80% of all of such works.

Upon the completion of the works by stages, the contractor concerned has to comply with the requirements of the Water Supplies Department ("WSD") to take water samples for water quality tests. Only when the testing results for the completed stage of works meet the standards will WSD confirm the stage of the works as compliant with the relevant requirements. To date, the testing results for water samples taken from the communal areas and individual flats with replumbing completed all met the standards.

The consolidated response to the four parts of Mr Paul TSE's question is as follows:

To follow up on this question about the quality of water supply to LNTK Estate, WSD launched an immediate investigation. On 2 June 2018, WSD staff collected water samples from two Government fire hydrants close to the water supply point to LNTK Estate and from a public toilet in the shopping centre of Kwai Hin House of LNTK Estate. According to testing results, the water samples met the standards, indicating that the water supply to LNTK Estate was normal.

WSD and Housing Department ("HD") also checked their records of the past three months and found they received no water quality complaints, including those about odour and colour, from LNTK Estate. HD received a report of odourous and turbid fresh water from the resident of a flat with completed replumbing in Kai Ching Estate. The contractor of HA conducted an inspection, but found no such water quality problems. Apart from this case, neither WSD nor HD has received any report of water quality problems similar to LNTK Estate described in this question from other public rental housing estates with replumbing carried out.

Furthermore, WSD will monitor the quality of drinking water at consumers' taps through the Enhanced Water Quality Monitoring Programme with participating premises randomly selected from all water accounts, including those with completed replumbing. The test results of water samples collected from the premises will be used in the compilation of the water quality statistics for publication on WSD's website, which will be updated once every week.

Furthermore, WSD in mid-2017 promulgated a WSD Circular Letter No. 6/2017 requiring the completed inside services of all new buildings have to be subjected to a systematic flushing protocol, so that metal leaching out from the newly installed pipes and fittings will be reduced to a low level. As for replumbing works carried out in existing buildings, WSD published the "Water Use Tips", also in mid-2017, suggesting to residents to run the drinking water taps every morning and night for about 15 minutes, and run the tap every time for two minutes before using the water for drinking or cooking purposes in the first three days of their unit's replumbing works newly completed. Since residents can save the flushed water for non-potable uses, such as watering plants, cleaning floors, washing, etc., there will not be water wastage.

Support for women who have suffered a miscarriage and their families

19. **DR ELIZABETH QUAT** (in Chinese): *President, some studies have pointed out that women who have experienced miscarriage often have various negative emotions, such as self-blame, fear, depression and anxiety. However, members of the public in general do not understand much about the needs of women who have suffered a miscarriage and their families, and the Government has failed to provide appropriate support to those people. In this connection, will the Government inform this Council:*

- (1) *of the number of miscarriage cases in each of the past 10 years; whether the Government will proactively provide the following information to women who have suffered a miscarriage and their families: follow-up medical procedures after having miscarriage, approaches and procedure for handling abortuses, the rights of the parents of abortuses, and matters requiring attention after having miscarriage and related support services; if so, of the details; if not, the reasons for that;*

- (2) *whether it will establish a website to provide comprehensive knowledge and information about miscarriage to enable members of the public to learn how to console relatives and friends who have suffered a miscarriage and their families; if so, of the details; if not, the reasons for that;*
- (3) *whether it will allocate additional resources to provide support for women who have suffered a miscarriage (including a counselling hotline and home visit service); if so, of the details and the timetable; if not, the reasons for that;*
- (4) *whether it has issued work guidelines to medical staff and social workers as well as provided them with training on counselling skills, to enable them to express appropriate care for women who have suffered a miscarriage and their families; if not, of the reasons for that;*
- (5) *as some studies have revealed that alternative medicine, such as massage, psychological counselling and herbal medicine, may relieve symptoms of depression and anxiety experienced by women who have suffered a miscarriage, whether the Government will allocate funds for studying the development of services on alternative medicine, and whether it will, by making reference to the practice of hospitals in the United Kingdom, provide medical certification to parents of abortuses of less than 24 weeks' gestation to facilitate them to arrange burial for the abortuses and, upon request, provide parents of abortuses of late miscarriages (of 14 to 24 weeks' gestation) with photos as well as hand and foot prints of the abortuses for commemorative purpose; if so, of the details and the timetable; if not, the reasons for that; and*
- (6) *as the Government has indicated that for abortuses of less than 24 weeks' gestation, where feasible and provided that relevant legal requirements and such conditions as public health have been met, the Hospital Authority ("HA") will allow the parents concerned to claim the abortuses, whether it knows the criteria adopted by HA for determining the "feasible" conditions; whether the Government will expeditiously amend the legislation and simplify the relevant*

procedure so as to allow parents of abortuses of less than 24 weeks' gestation to claim the abortuses as quickly as possible for arranging burial; if so, of the details and the timetable; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to the various parts of the question raised by Dr Elizabeth QUAT is as follows:

(1) to (5)

The table below sets out the number of discharges of inpatients admitted for abortion annually from 2007 to 2016:

<i>Year</i>	<i>Number of discharges of inpatients admitted for abortion</i> *
2007	10 186
2008	10 648
2009	10 147
2010	10 374
2011	11 696
2012	12 130
2013	9 817
2014	9 539
2015	9 271
2016	9 166

Note:

* "Abortion" includes spontaneous abortion and medical abortion. The above statistics include discharges of inpatients from hospitals of the Hospital Authority, correctional institution hospitals and private hospitals. For details, please refer to the Tables on Health Status and Health Services published by the Department of Health <http://www.dh.gov.hk/english/pub_rec/pub_rec_lpoi/pub_rec_lpoi_thshs.html>.

The Maternal and Child Health Centres ("MCHCs") of the Department of Health ("DH") collaborate with the obstetrics departments of the Hospital Authority ("HA") to provide antenatal care for pregnant women. Medical staff of MCHCs will refer

pregnant women showing signs of miscarriage to the obstetrics and gynaecology departments of HA for further assessment and follow-up consultation.

Bereavement counselling teams are set up in the obstetrics and gynaecology departments of HA to take care of parents who have experienced a miscarriage or baby loss through the provision of emotional support and counselling services to help them recover from bereavement.

The health care staff taking care of the abortuses will clean them, dress them in specially-made angel gowns and beanies, or the clothing prepared by their parents, and put them in a purpose-made basket or baby cot for them to meet their parents. Parents may cuddle them and spend some time with them before bidding farewell. Health care staff will take photos for them and prepare memorial cards with their footprints for their parents' commemoration. If necessary, the counselling team concerned may keep the memorial card for a period of time for the mother to decide whether or not to take the card back in the follow-up consultation.

Individual parents who want to claim the abortuses may express their wishes to the counselling team concerned before discharge. Their requests will be referred to the Patient Relations Officer for follow-up action and assistance as appropriate. The bereavement counselling team will also refer cases to medical social workers or clinical psychologists in the light of individual circumstances.

In addition, the 65 Integrated Family Service Centres and the two Integrated Services Centres operated by the Social Welfare Department ("SWD") or non-governmental organizations provide individuals and families in need, including women who have suffered a miscarriage, in specific localities with a spectrum of preventive, supportive and remedial welfare services, which include counselling or support/mutual help groups (please visit the SWD's website: <https://www.swd.gov.hk/en/index/site_pubsvc/page_family/sub_listofserv/id_ifs/> for details). Understanding the pressure on women who have suffered a miscarriage and their physical and

mental well-being, social workers will conduct comprehensive assessment on the needs of each service user. If necessary, home visits, interviews and clinical psychological services will be arranged. In general, they provide appropriate services for individuals and families in need through different work strategies, such as early identification and intervention, service integration and partnership with other service stakeholders.

People in need (including women who have suffered a miscarriage) may call the 24-hour SWD hotline at 2343 2255 to seek immediate counselling or referral to appropriate service units for support, consultation and follow-up services.

Having received training on professional counselling skills, social workers of SWD provide the necessary psychological counselling for women suffering a miscarriage and their families to help them overcome their emotional problems or distress arising from the miscarriage and render them emotional support service. If psychotherapy is required, the social workers will make referrals for those in need to receive clinical psychological service. Advanced counselling courses are organized by the Staff Development and Training Section of SWD from time to time to enhance the professional counselling skills of its social workers.

In addition, the Family Health Service of DH and HA have jointly compiled health information on miscarriage, which has been uploaded to the web pages of DH⁽¹⁾ and HA⁽²⁾ respectively.

- (6) As for abortuses of less than 24 weeks' gestation stored in public hospitals, parents will be allowed to claim the abortuses according to their wishes where feasible and provided that relevant legal requirements and such conditions as public health have been met. The hospitals will cater for the needs of the parents as far as possible

(1) <http://www.fhs.gov.hk/english/health_info/woman/15681.html>

(2) <<http://www3.ha.org.hk/ntwc/csc/health/Leaflet/O&G/O&G07.pdf>> and <<http://www3.ha.org.hk/ntwc/csc/health/Leaflet/O&G/O&G06.pdf>> (Only Chinese version is available.)

and remind them of the matters requiring attention in the handling of abortuses, including public health requirements and burial arrangement considerations.

The Food and Health Bureau is actively examining options of legislative amendments to facilitate better handling of abortuses. HA will also consider simplifying the claim procedure so that parents will be able to collect their abortuses as early as possible.

Eligibility for being nominated as a candidate for a functional constituency election of the Legislative Council

20. **MR TONY TSE** (in Chinese): *President, under section 37(2)(b) of the Legislative Council Ordinance (Cap. 542), a person is eligible to be nominated as a candidate at a functional constituency ("FC") election of the Legislative Council, other than the District Council ("DC") (first) FC and the DC (second) FC, provided the person (i) is both registered and eligible to be registered as an elector for the FC, or (ii) satisfies the Returning Officer for the FC that the person has a substantial connection with the FC ("substantial connection provision"). Currently, it is specified in the eligibility requirements for registration as electors of an FC with individual voting as its electorate base that persons who wish to register as electors must (i) have the specified recognized professional qualifications, or (ii) be members of specified professional bodies who are entitled to vote at the general meetings of such bodies. In this connection, will the Government inform this Council:*

- (1) *of the circumstances, other than those provided in section 3 (Interpretation)(2)(b) of Cap. 542 in which a person is considered to have a substantial connection with an FC, based on which the Returning Officer for the FC will be satisfied that a person has a substantial connection with the FC concerned;*
- (2) *given that under section 37(2)(b)(ii) of Cap. 542, any person, in respect of an FC with individual voting as its electorate base, can be a candidate at the FC election as long as the person has a substantial connection with the FC, even if that person is ineligible for registration as an elector of the FC, of the reasons why the*

eligibility requirements prescribed by the authorities for candidates at the elections of this type of FCs are even less stringent than those for the electors for such elections;

- (3) *why it is currently the case that the eligibility requirements for candidates at the elections for the DC (first) FC and the DC (second) FC do not include the substantial connection provision but the eligibility requirements for candidates at other FC elections do, and whether the authorities have examined if such a situation reflects the adoption of double standards; and*
- (4) *whether the authorities will amend the legislation to (i) raise the eligibility requirements for candidates at elections for FCs with individual voting as its electorate base, so as to align such requirements with those for registration as electors of the FCs concerned, and (ii) remove the substantial connection provision in relation to the eligibility requirements for election candidates; if so, of the legislative timetable; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President, my reply to Mr Tony TSE's question is as follows:

- (1) and (2)

The eligibility criteria for a person being nominated as a candidate at an election for a Legislative Council functional constituency ("FC") has been clearly set out in section 37(2) of the Legislative Council Ordinance (Cap. 542) ("LCO"). The provision stipulates that a person intending to stand in the election should be registered and eligible to be registered as an elector for the FC concerned (with the exception of District Council ("DC") (second) FC), or satisfies the Returning Officer ("RO") for FC concerned that the he/she has substantial connection with that FC (with the exceptions of DC (first) and DC (second) FC). Besides, the provision also stipulates that in order for a person to become a candidate at an election for a FC, he/she, in addition to being a registered geographical

constituency elector, must satisfy the restrictions on age, nationality and year of residence in Hong Kong for candidates as laid down in the provision.

Section 3(2)(b) of LCO has elaborated on the circumstances in which a person has a "substantial connection" with a FC, including but not limited to being a member, partner, officer or employee of a corporate elector of FC, or a corporate member of such a corporate elector; or belonging to a class of persons specified as being electors of FC.

As for whether a person running in the election has a substantial connection with FC concerned, it would depend on the actual circumstances of each case. In accordance with section 42A of LCO and section 16 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D), whether a candidate's nomination is valid or not is determined by RO according to the legal requirements and relevant procedures. Depending on the actual circumstances of each case, RO may seek advice from the Nomination Advisory Committee and may, where necessary, require the candidate to furnish additional information that he/she considers appropriate, so as to satisfy himself/herself as to the eligibility of the candidate or the validity of the nomination. RO shall, in accordance with the law and having considered the relevant information, decide whether or not a person is validly nominated as a candidate.

- (3) In respect of DC (first) and DC (second) FCs, in accordance with the existing legislation, only elected district councillors can be nominated as a candidate in the election for FCs. If the provision on "substantial connection" is applicable to the election for these FCs, there is a possibility that over three million registered electors would be eligible to be nominated as a candidate, which appears to be in contradiction to the legislative intent of the Government.
- (4) The existing requirement on the eligibility to be nominated as a candidate has been effective. We have no plan for any change.

Improper disposal of decoration waste in public housing estates

21. **MR HOLDEN CHOW** (in Chinese): *President, quite a number of tenants of newly completed public housing estates will have decoration works carried out for their new homes before moving in. Under the existing requirements, tenants must dispose of decoration waste in a proper manner, and in order to avoid the accumulation of waste in common areas such as building corridors and lift lobbies, the property service agents ("PSAs") concerned will collect Debris Removal Charges from tenants for disposing of all waste collectively. Under this arrangement, decoration contractors employed by tenants may dispose of decoration waste at the designated debris dumping points set up by PSAs in the housing estates. However, some members of the public have relayed to me that in recent months, large quantities of decoration waste have accumulated in the common areas of several newly completed public housing estates in the New Territories (e.g. Ying Tung Estate at Tung Chung, Yan Tin Estate at Tuen Mun and Kwai Tsui Estate at Kwai Chung), seriously undermining environmental hygiene and jeopardizing the health and safety of tenants. In this connection, will the Government inform this Council:*

- (1) *how the Housing Department ("HD") currently curbs the improper disposal of decoration waste by decoration contractors in the common areas of housing estates; whether HD has regularly deployed staff members to conduct inspections at newly completed housing estates with a view to curbing such behaviour; if so, of the details and outcome of such inspections; if not, the reasons for that;*
- (2) *of the follow-up measures adopted when improper disposal of decoration waste in the common areas of housing estates has been found during the inspections conducted by HD staff members or when such reports are received by them;*
- (3) *whether decoration contractors are required to bear legal liability for improper disposal of decoration waste; if so, of the details (including the penalties); whether HD will blacklist such contractors to prohibit them from carrying out decoration works at the units of HD's housing estates for a certain period of time, with a view to enhancing the deterrent effect; if so, of the details; if not, the reasons for that; and*

- (4) *of the number of decoration contractors warned or penalized for improper disposal of decoration waste in housing estates in the past two years?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, in response to various parts of the question raised by Mr Holden CHOW, a consolidated reply is at below:

According to the Waste Disposal Ordinance, a person commits an offence if he deposits waste illegally without the permission of the land owner. Such acts may be prosecuted by the Environmental Protection Department.

As regard the Hong Kong Housing Authority ("HA"), according to HA's rules, tenants of newly-completed PRH are required to submit applications before carrying out decoration works. HA distributes the application forms for decoration works to tenants together with the intake documents. Tenants are free to choose their decoration arrangements, including conducting decoration with assistance from relatives/friends, employing decoration companies in the market, or engaging services from any decoration contractor ("DC") listed on the Reference List of DCs maintained by HA (not limited to DCs allocated by the Housing Department to station at the estates).

Besides, HA's estate offices would remind tenants, through intake briefing sessions and decoration handbooks, not to alter existing facilities without approval in order to avoid wastage of resources and generation of construction waste. During decoration, tenants should not dispose of decoration wastes and/or refuse in public areas to avoid damaging environmental hygiene and creating public safety hazards.

During decoration, workers are required to wear permits issued by estate offices for identification purpose. They should also register at the security guard counters at the lobby when entering or exiting the building. Tenants should, during the decoration period, display the approval documents together with information of the approved work items at a conspicuous place in the unit in order to facilitate inspections by estate staff to ensure that the decoration works are carried out as approved and that there is no other irregularity, including indiscriminate disposal of decoration wastes.

In view of the various potential environmental hygiene and safety problems caused by simultaneous execution of decoration works by many tenants in newly completed PRH estates during the intake period, the estate offices would carry out cleaning operations at estate common areas and inside buildings more frequently, step up patrol and take control actions including referring cases to relevant authorities for enforcement actions.

Contractors on the "Reference List of DCs" must comply with the "Guidelines for Reference List of DCs" and the terms and conditions of undertaking decoration works when providing services, including taking precautionary measures to safeguard public health, ensure work safety, and abate fire hazards. DCs must properly place all decoration debris at the dumping point within the estates and should not dispose of them recklessly or cause any obstructions. If irregularities are found, HA will, depending on the circumstances, take appropriate regulatory actions including issuing warnings; or in more severe circumstances, revoking the work licence of the contractor; or even delisting DC from the Reference List. A delisted DC will be barred from re-admission to the Reference List for two years.

Moreover, for misdeeds committed by tenants at the estate (including the tenant and his/her family members in the tenancy), HA can take regulatory actions in accordance with the "Marking Scheme for Estate Management Enforcement". Five penalty points will be allotted if a relevant person is found "Obstructing corridors or stairs with sundry items rendering cleansing difficult" or "Disposing of domestic refuse indiscriminately, such as improper disposal in lift lobbies or inside bins without cover"; and seven penalty points will be allotted for "Dumping or disposing of decoration debris indiscriminately at refuse collection points, within building or in other public areas". When a tenant has accrued 16 points within two years, his/her tenancy is liable to termination.

HA does not maintain consolidated statistics on warnings or penalties imposed on DCs for the non-compliant disposal of decoration wastes.

For the recently completed Ying Tung Estate, Yan Tin Estate and Kwai Tsui Estate mentioned in the question, HA issued 28 warnings to DCs regarding dumping of decoration wastes and DCs concerned had followed up the matters immediately.

Management of skips

22. **MR CHAN HAK-KAN** (in Chinese): *President, in the light of the recommendations in Report No. 61 of the Director of Audit, the Environment Bureau leased out two sites last year, one adjacent to Tseung Kwan O Area 137 Fill Bank and another at Siu Lang Shui Road in Tuen Mun, by way of short-term tenancies for use by the skips trade for storing skips. It has been reported that the utilization rates of the two skip storage sites have been on the low side. As a result, the problem of unauthorized placement of skips on streets has not improved. In this connection, will the Government inform this Council:*

- (1) *of the design capacities for skips of the two aforesaid sites, and whether it knows the average numbers of skips stored daily and monthly thereat since they were leased out; whether the Government has plans to set aside other sites for storing skips; if so, of the details; if not, the reasons for that;*
- (2) *of the number and contents of the complaints about skips received by the Government in each of the past three years, as well as the number of warnings issued and the number of skips removed in respect of such cases; the average time lapsed from receipt of the complaints to removal of the skips by the Government, and set out the relevant figures by District Council district;*
- (3) *of the following information on the cases handled respectively by (a) the Lands Department and (b) the Police, in the past three years: (i) the respective numbers of cases in which skip operators were prosecuted and convicted, (ii) the average time lapsed from institution of prosecutions to conclusion of the cases, and (iii) the punishments generally imposed on the convicted persons;*
- (4) *of the number of traffic accidents involving skips in each of the past three years; the causes for such accidents and the resultant casualties;*
- (5) *as it was pointed out in the aforesaid Report that to tackle the problem of unauthorized placement of skips, the government departments concerned and the stakeholders were generally in support of introducing a permit system, of the details of the Government's work on the introduction of the permit system; and*

- (6) *given that the Guidelines for Mounting and Placing of Skips formulated by the Transport Department have no legal effect, whether the Government will consider regulating skip operation by way of legislation with a view to reducing traffic accidents caused by skips; if so, of the details; if not, the reasons for that, and whether the Government has more effective ways to solve the problem of unauthorized placement of skips in the long run?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, to follow up the recommendations made in Report No. 61 of the Director of Audit, the Government has set up a Joint Working Group on Management of Roadside Skips under which the efforts of relevant government bureaux and departments are coordinated by the Environment Bureau and the Environmental Protection Department to enhance the management and control of roadside skips. Regarding the questions raised by Mr CHAN Hak-kan, the Government's consolidated reply is as follows:

- (1) One of the major causes of the problem of placement of skips at the roadsides is the shortage of proper storage areas. Through open tender, the Government has provided two sites, one adjacent to Tseung Kwan O Area 137 Fill Bank and the other at Siu Lang Shui Road in Tuen Mun West, to the relevant organizations of the skip operators trade by way of short-term tenancies ("STT") for storing skips. STT site in Tseung Kwan O can store about 120 skips, and its occupancy rates have been increasing since its commencement of operation in January 2017. Currently, both the average daily and monthly occupancy rates are over 90%. As for STT site in Siu Lang Shui in Tuen Mun, it can store some 80 skips. Since its commencement of operation in December 2017, the average daily and monthly occupancy rates have been around 30%. The comparatively low occupancy rates are attributable to the insufficiency of facilities thereat. The tenant has committed to enhancing the related facilities so as to boost the occupancy rates. The Government will continue to monitor the utilization of these two sites and actively identify more suitable sites in various districts for use under STTs by the skips trade to store skips.

(2) and (3)

The complaints about roadside skips received by the Government in the past were usually related to road obstruction or illegal occupation of government land. Currently, the Hong Kong Police Force ("HKPF") and the Lands Department ("LandsD") handle complaints against roadside skips in accordance with the Summary Offences Ordinance (Cap. 228) and the Land (Miscellaneous Provisions) Ordinance (Cap. 28) respectively. Figures on complaints about roadside skips received, advice or warnings issued and skips removed by the Police and LandsD, as well as the respective numbers of cases in which skip operators were prosecuted and convicted, over the past three years are tabulated at Annexes 1 and 2, with breakdowns by police district and District Council district respectively. In general, upon receipt of advice or warnings issued under the Summary Offences Ordinance by front line police officers at the scene, skip operators will arrange removal of their skips according to the situations. As each incident was considered on its own circumstances prevailing at the scene, HKPF did not maintain the information on the average time lapsed from receipt of the complaints to removal of the skips. Penalties for cases convicted under the Summary Offences Ordinance ranged from \$500 to \$3,500 in the past. For LandsD, the penalty for cases convicted under the Land (Miscellaneous Provisions) Ordinance was \$1,500 in 2015. The time lapsed from institution of prosecutions to convictions in court depends on court arrangements and whether litigations are required, and normally takes six weeks to six months.

(4) According to the information provided by the Transport Department, the number of traffic accidents involving roadside skips and the related injuries in the past three years are tabulated below. All the accidents were minor ones and mainly attributable to behaviours of the drivers concerned, including driving inattentively, losing control of the vehicle and reversing negligently, etc.

<i>Year</i>	<i>Number of traffic accidents involving roadside skips with injuries</i>	<i>Number of injuries</i>
2015	4	4
2016	4	6
2017	3	5

In addition to the provision of suitable sites to the trade for storage of skips, the Government has engaged a term service contractor since February 2017 to assist enforcement departments in speeding up the removal of skips found to be posing serious obstruction to traffic or imminent danger to the public, thereby further enhancing enforcement efficiency and the deterrent effect. Between February 2017 and April 2018, the concerned departments conducted 34 joint enforcement operations against the unauthorized placement of skips, covering the black spots in Tseung Kwan O, Sai Kung, Kowloon Bay and Kai Tak. The extent of unauthorized placement of skips at these black spots has been noticeably improved. The concerned government departments will continue to organize joint enforcement operations as necessary in various districts to deter the malpractice of unauthorized placement of skips at roadsides.

(5) and (6)

The Government has, through organizing seminars for the skip operators trade, been promoting safe practices in skip operations and wider adoption of the Guidelines for Mounting and Placing of Skips ("Guidelines") issued by the Transport Department ("TD"). In parallel, the Government has also been in close liaison with the skip operators trade to explore the setting up of a trade-led voluntary skips registration system. Compliance with applicable government requirements and guidelines (e.g. those covered in the TD's Guidelines and other guidelines addressing environmental concerns) will be among the criteria for registration. The voluntary skips registration system will be instrumental in addressing the trade's concerns and raising the compliance rate of government requirements and guidelines. Skip operators are initially receptive to the idea of exploring a voluntary skips registration system to facilitate their skip operations. To take this initiative forward, the Government is engaging an external consultant to work with the skip operators trade in formulating proposals by 2018 for setting up a trade-led voluntary skips registration system.

The Government will review the effectiveness of the above measures, and will, having regard to the progress of the related work and experience gained from the voluntary skips registration system, examine whether there is a need to introduce a new regulatory system for skips operations in the long run.

Annex 1

Enforcement Statistics of Hong Kong Police Force by Police District

Police District	Number of complaints received			Number of cases in which advice or warnings were issued/ Number of skips removed			Number of cases in which skip operators were prosecuted			Number of cases convicted		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Hong Kong Island												
Eastern	131	213	229	65/0	97/0	166/0	0	0	0	0	0	0
Western	67	94	91	32/0	65/0	77/3	0	0	9	0	0	8
Wan Chai	136	202	235	109/1	161/0	179/0	1	0	1	1	0	1
Central	102	81	117	102/0	74/0	90/0	0	0	0	0	0	0
Kowloon												
Kowloon City	106	118	140	86/0	95/0	110/0	0	0	0	0	0	0
Yau Tsim	124	130	112	90/1	74/0	51/0	1	0	1	1	0	1
Sham Shui Po	74	79	64	56/0	59/0	59/0	0	0	0	0	0	0
Mong Kok	75	84	65	57/1	60/0	53/0	1	0	0	1	0	0
Sau Mau Ping	54	62	64	43/0	37/0	35/0	0	0	1	0	0	1
Wong Tai Sin	27	31	29	15/0	21/0	17/0	1	1	0	1	1	0
Kwun Tong	113	79	34	58/0	29/0	27/0	0	0	0	0	0	0
Tseung Kwan O ⁽¹⁾	-	-	25	-	-	3/3	-	-	7	-	-	7
New Territories												
Tai Po	34	37	24	23/0	29/0	15/0	0	0	0	0	0	0
Tuen Mun	23	31	26	13/0	24/0	19/0	0	0	0	0	0	0
Yuen Long	18	41	32	9/0	30/0	20/0	1	0	0	1	0	0
Border	0	0	2	0/0	0/0	0/0	0	0	0	0	0	0
Airport	0	0	0	0/0	0/0	0/0	0	0	0	0	0	0
Sha Tin	37	66	43	28/1	32/0	23/0	1	0	0	1	0	0
Tsuen Wan	74	48	44	49/0	16/0	13/0	4	0	1	4	0	1
Kwai Tsing	34	36	41	22/0	26/0	24/0	0	0	0	0	0	0
Lantau	1	9	2	1/0	6/0	1/0	0	0	0	0	0	0
Total:	1 230	1 441	1 419	858/4	935/0	982/6	10	1	20	10	1	19

Note:

- (1) Formerly a part of Kwun Tong District, Tseung Kwan O Division was upgraded to Tseung Kwan O District.

Enforcement Statistics of Lands Department by District Council District

District	Number of complaints received			Number of notices posted on skips/ Number of skips removed			Number of cases in which skip operators were prosecuted			Number of cases convicted		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Hong Kong Island												
Eastern	212	252	245	175/0	422/1	522/1	0	0	0	0	0	0
Southern	21	13	8	13/0	7/0	2/0	0	0	0	0	0	0
Wan Chai	80	103	73	32/0	46/1	53/0	0	0	0	0	0	0
Central and Western	141	197	95	107/0	243/0	122/0	0	0	0	0	0	0
Kowloon												
Kowloon City	50	72	68	74/0	169/0	42/2	0	0	0	0	0	0
Yau Tsim Mong	95	122	83	67/0	63/0	49/1	1	0	0	1	0	0
Sham Shui Po	28	50	44	14/1	13/1	22/0	0	0	0	0	0	0
Wong Tai Sin	4	13	9	2/0	9/0	0/0	0	0	0	0	0	0
Kwun Tong	81	87	93	286/1	242/0	81/0	0	0	0	0	0	0
New Territories												
Tai Po	6	15	23	4/0	13/0	5/0	0	0	0	0	0	0
Tuen Mun	2	3	6	0/0	1/0	0/0	0	0	0	0	0	0
Yuen Long	4	6	2	0/0	0/0	0/0	0	0	0	0	0	0
North	4	5	3	0/0	3/0	3/0	0	0	0	0	0	0
Sai Kung	64	43	25	957/5	762/8	524/9	0	0	0	0	0	0
Sha Tin	10	24	21	7/0	20/0	15/0	0	0	0	0	0	0
Tsuen Wan	18	61	41	16/0	33/0	20/0	0	0	0	0	0	0
Kwai Tsing	37	32	55	16/1	26/0	61/0	0	0	0	0	0	0
Islands	1	0	2	0/0	0/0	0/0	0	0	0	0	0	0
Total:	858	1 098	896	1 770/8	2 072/11	1 521/13	1	0	0	1	0	0

GOVERNMENT BILLS**First Reading and Second Reading of Government Bill****First Reading of Government Bill**

PRESIDENT (in Cantonese): Government Bill: First Reading.

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 2018

CLERK (in Cantonese): Inland Revenue (Amendment) (No. 5) Bill 2018.

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

Second Reading of Government Bill

PRESIDENT (in Cantonese): Government Bill: Second Reading.

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 2018

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move the Second Reading of the Inland Revenue (Amendment) (No. 5) Bill ("the Bill").

The Bill seeks to implement three measures on tax concession proposed in the 2018-2019 Budget:

- (1) to allow husband and wife the option of electing for personal assessment separately;
- (2) to allow enterprises to claim tax deduction for capital expenditure incurred for procuring environmental protection installations in full ... over five years ...

(Dr KWOK Ka-ki stood up)

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, what is your point of order?

DR KWOK KA-KI (in Cantonese): President, I request a headcount.

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

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

PRESIDENT (in Cantonese): Secretary, please continue.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese):

- (2) to allow enterprises to claim tax deduction for capital expenditure incurred for procuring environmental protection installations in full in one year instead of over five years; and
- (3) to extend the scope of tax exemption for debt instruments under the Qualifying Debt Instrument ("QDI") Scheme.

First, personal assessment is a tax relief measure aiming at alleviating the tax burden of individual taxpayers. At present, if a married person and his/her spouse have income assessable under the Inland Revenue Ordinance ("IRO") and both are eligible to elect for personal assessment, that person can make an election only when his/her spouse do so. In order to provide taxpayers who are married with greater flexibility in tax assessment, the Government proposes relaxing the requirement for the election of personal assessment by allowing married persons the option to elect personal assessment separately.

As for procurement of eligible energy efficient building and renewable energy installation by enterprises, the Government proposes allowing enterprises to claim tax deduction for the capital expenditure incurred in full in one year instead of over five years as provided currently to encourage enterprises to

procure such installations. Encouraging the use of environmental protection installations will be conducive to the achievement of the carbon intensity reduction target set out in the "Hong Kong's Climate Action Plan 2030+".

Lastly, to promote further development of the bond market, the Bill proposes amending IRO to enhance the QDI Scheme, which include extending the 100% profits tax exemption, from debt instruments with an original maturity of not less than seven years to debt instruments of any duration; and allowing debt instruments listed on the Stock Exchange of Hong Kong Limited to be qualified for tax exemption, in addition to instruments lodged with and cleared by the Central Moneymarkets Unit of the Hong Kong Monetary Authority.

Subject to the Bill being passed, the three tax relief measures will be implemented starting from the year of assessment 2018-2019.

President, we have submitted the Legislative Council Brief on 6 June to explain the proposed amendments to the Bill. I implore Members to support and pass the Bill, so that the three tax relief measures can be implemented early.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) (No. 5) Bill 2018 be read the Second time.

(Mr AU Nok-hin stood up)

PRESIDENT (in Cantonese): Mr AU Nok-hin, what is your point?

MR AU NOK-HIN (in Cantonese): President, I have a point of order. According to Rule 54(4) of the Rules of Procedure, I request that the Inland Revenue (Amendment) (No. 5) Bill be directly referred to the meeting of the Legislative Council for Second Reading debate.

May I explain the reasons for making this request in brief?

PRESIDENT (in Cantonese): Mr AU Nok-hin has requested to move a motion without notice under Rule 54(4) of the Rules of Procedure that the Inland Revenue (Amendment) (No. 5) Bill be not referred to the House Committee.

According to the rule, the Member can only move that motion with the consent of the President. Hence, Mr AU Nok-hin, you may now state your reasons for proposing this motion concisely. Yet, you may not move the motion direct. Mr AU Nok-hin, you may speak now.

MR AU NOK-HIN (in Cantonese): President, the Inland Revenue (Amendment) (No. 5) Bill involves several provisions, including clauses 9, 12 and 14. Clause 9 is about allowing any individual person with a spouse ...

PRESIDENT (in Cantonese): Mr AU Nok-hin, you need only state briefly your reasons for proposing the motion, but not explaining the relevant provisions in detail.

MR AU NOK-HIN (in Cantonese): I understand that. I understand that Honourable Members know the content of the three clauses briefly, and I notice that during the examination process in the past, the Financial Secretary once proposed three amendments to the Budget. During the debate on the Appropriation Bill 2018, Members proposed amendments to various aspects, yet no Member proposed any amendment or spoke on the three provisions. It is evident that most of the Members did not consider it necessary to make amendment to the three provisions. More importantly, to my understanding, the Environment Bureau and the Commerce and Economic Development Bureau had asked some of the colleagues of the Legislative Council whether the relevant amendments must be referred to a Bills Committee for scrutiny, as they considered the amendments relatively simple. For instance, for the tax return for married couples, it will be convenient ...

PRESIDENT (in Cantonese): Mr AU Nok-hin, please be seated. To my understanding, the Bill seeks to implement measures starting from the year of assessment 2018-2019 as proposed in the 2018-2019 Budget.

I consider that there is no urgency for the Bill to be passed today. There is no information indicating to my satisfaction that this Council should deviate from the established practice of referring the Bill to the House Committee for consideration of the need to set up a Bills Committee to scrutinize the Bill in detail. Hence, I will not grant Mr AU Nok-hin permission to move this motion.

PRESIDENT (in Cantonese): In accordance with the Rules of Procedure, the Second Reading debate is adjourned and the Bill referred to the House Committee.

Resumption of Second Reading Debate on Government Bill

PRESIDENT (in Cantonese): Council now continues the debate on the Second Reading of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill.

I have issued, through the Secretariat, a letter to Members to explain the relevant arrangement. I now call upon the Secretary for Transport and Housing to continue to reply. Then, the Second Reading debate will come to a close.

(Mr CHAN Chi-chuen stood up)

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, what is your point?

MR CHAN CHI-CHUEN (in Cantonese): President, you said you have notified Members in a letter about the relevant debate arrangement. After reading your letter, however, I still do not understand the arrangement. Are you saying that there will be 22 hours of examination for the committee of the whole Council and six hours for the Third Reading debate? Please spell out clearly.

PRESIDENT (in Cantonese): I have already made a ruling on the relevant arrangement, and the President's ruling shall be final. Members should not use points of order to question my ruling, which is out of order. Members should stop using points of order to make comments on my ruling.

Secretary, please speak.

(A number of Members talked aloud in their seats)

GUANGZHOU-SHENZHEN-HONG KONG EXPRESS RAIL LINK (CO-LOCATION) BILL

Resumption of debate on Second Reading which was moved on 31 January 2018

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, first, the Government team would like to thank all the 64 members on the Bills Committee on the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bills Committee"), in particular the Chairman, Mrs Regina IP, and the Deputy Chairman, Mr CHEUNG Kwok-kwan, as well as the staff members and legal advisers of the Legislative Council Secretariat. Thanks to their hard work, the examination of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") has been successfully completed, and the debate on the resumed Second Reading debate of the Bill can be conducted at the meeting of the Legislative Council today.

The major construction works of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") have been completed in general, and the trial operation commenced in April 2018. The project is heading in full gear and running in the final sprint to achieve the target of commencing operation in September this year. After spending over eight years on construction, in just three months, we will enter the new era of XRL which belongs to the people of Hong Kong ...

(Some Members left their seats, and Mr LAM Cheuk-ting intended to walk towards the President's dais)

PRESIDENT (in Cantonese): Will Members please return to their seats at once. Otherwise, I will regard your conduct as grossly disorderly.

(A number of Members stood up and talked aloud, requesting to raise a point of order)

PRESIDENT (in Cantonese): Secretary, please continue.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): After spending over eight years on construction, in just three months, we will enter the new era of XRL which belongs to the people of Hong Kong. At this very moment, the "Vibrant Express" is ready to launch. Yet, for XRL to start serving the people of Hong Kong on schedule, the crucial factor and key lie in the passage of the Bill by the Legislative Council, so that the "Three-step Process" will be completed and the co-location arrangement implemented according to law at the West Kowloon Station of XRL.

The Government of the Hong Kong Special Administrative Region ("SAR") fully understands that the community is concerned about the subject of the co-location arrangement ...

(A number of Members stood up and talked aloud, requesting to raise a point of order)

PRESIDENT (in Cantonese): Mr HUI Chi-fung, please return to your seat immediately. Otherwise, I will regard your conduct as grossly disorderly.

(A number of Members stood up and talked aloud, requesting to raise a point of order)

PRESIDENT (in Cantonese): I have already made it clear that I will not deal with any point of order now.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): ... we have never underestimated the difficulties in enacting local legislation. Regarding the Bills Committee set up for the Bill by the Legislative Council, it had a membership of 64 Members, which is an unprecedented number. The Bills Committee held its first meeting on 12 February 2018 and completed the scrutiny of the Bill on 7 May 2018. During the period, 19 meetings were held, including 17 regular meetings of 45 hours of duration and public hearings of 19 hours, to allow government officials of SAR to facilitate the detailed examination of the Bill by the Legislative Council and to listen to the views of various sectors of society on the subject together with Members ...

(A number of Members stood up and talked aloud, requesting to speak on the Second Reading)

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): ... we accord great importance to the examination of the Bill. Hence, the team of the SAR Government has all along demonstrated the greatest sincerity and patience to maintain close communication with the Legislative Council and give comprehensive explanations to strive for the support of Members of the Legislative Council. For these reasons, the Secretary for Justice, the Secretary for Security and I, three of the principal officials of SAR, have jointly attended the meetings of the Bills Committee to give detailed responses to Members' questions relating to various principles of the Bill on different perspectives including constitutional issues, laws, security and operation of XRL, and so on. During the clause-by-clause scrutiny of the Bill, I have attended every meeting jointly with colleagues from the Transport and Housing Bureau, the Department of Justice and the Security Bureau to respond to questions on the details of the Bill and the specific operation arrangement of the co-location arrangement put forth by Members at the meetings.

In addition to the above meetings, we have provided detailed replies to the written questions raised by the Legal Service Division of the Legislative Council and Honourable Members, as well as the List of follow-up actions prepared by the Legislative Council Secretariat according to the discussion of Members at the meetings ...

(A number of Members repeatedly chanted a slogan aloud: "Andrew LEUNG, shame on you!")

PRESIDENT (in Cantonese): Secretary, please pause for a while.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): ... during the examination process of close to three months at the Bills Committee, the SAR Government has submitted 37 letters in total to the Legislative Council Secretariat in response to Members' requests and discussions at meetings to provide supplementary information on various aspects ...

(The Secretary for Transport and Housing was informed that the President had already asked him to stop speaking)

(A number of Members repeatedly chanted a slogan aloud: "Andrew LEUNG, shame on you!", and some Members left their seats)

PRESIDENT (in Cantonese): Will Members please return to your seats and keep quiet. If Members do not return to your seats, I will regard your conduct as grossly disorderly.

(A number of Members repeatedly chanted a slogan aloud: "Andrew LEUNG, shame on you!", and some Members did not return to their seats)

PRESIDENT (in Cantonese): Will Members please keep quiet and return to your seats immediately.

(A number of Members continued to speak aloud and some Members did not yet return to their seats)

PRESIDENT (in Cantonese): Will Members please return to your seats and be seated immediately.

(A number of Members remained standing, some Members spoke aloud to indicate their wish to raise a point of order, and some Members requested to speak on the Second Reading)

PRESIDENT (in Cantonese): I have already explained my decision in writing. If Members query my decision, you may follow up on other occasions. Members should not attempt to extend the debate by raising points of order.

(A number of Members remained standing and continued to speak aloud)

PRESIDENT (in Cantonese): If Members keep shouting in your seats and refuse to sit down, I will regard your conduct as grossly disorderly.

(Mr LAM Cheuk-ting and a number of Members remained standing and continued to speak aloud)

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, I have warned you a number of times. Please leave the Chamber now.

(A number of Members continued to talk aloud, requesting to raise a point of order, and several Members walked to Mr LAM Cheuk-ting and stood beside him. Security officers came forward to try to assist Mr LAM Cheuk-ting to leave the Chamber)

PRESIDENT (in Cantonese): I have explained it repeatedly that Members should not query my decision by means of raising points of order.

(A number of Members repeatedly chanted a slogan aloud: "Andrew LEUNG, shame on you!")

(Ms Claudia MO walked to the seat of Mr LAM Cheuk-ting)

PRESIDENT (in Cantonese): Ms Claudia MO, I give you the final warning.

(A number of Members repeatedly chanted a slogan aloud: "Andrew LEUNG, shame on you!", and some Members did not return to their seats)

PRESIDENT (in Cantonese): Will Members please keep quiet and return to your seats)

(A number of Members remained standing and some Members made loud requests to speak on the Second Reading)

PRESIDENT (in Cantonese): I have already given a clear explanation on the relevant debate arrangement in my written decision.

(A number of Members repeatedly chanted a slogan aloud: "Andrew LEUNG, shame on you!")

PRESIDENT (in Cantonese): Mr SHIU Ka-chun, Mr AU Nok-hin and Ms Tanya CHAN, if you do not keep quiet, I will regard your conduct as grossly disorderly.

(Ms Tanya CHAN remained standing, and she indicated aloud her wish to raise a point of order)

PRESIDENT (in Cantonese): Ms Tanya CHAN, you should not yell in your seat. I have to remind Members that I have already made a decision on the debate arrangement.

(A number of Members repeatedly chanted a slogan aloud: "Andrew LEUNG, shame on you!")

(Mr LAM Cheuk-ting was still yelling in this seat and did not leave the Chamber as ordered by the President)

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, as you do not leave the Chamber and obstruct personnel of the Legislative Council in enforcing my order, I have to remind you that according to section 19(b) of the Legislative Council (Powers and Privileges) Ordinance, any person who assaults, interferes with, molests, resists or obstructs any officer of the Council while in the execution of his duty, commits an offence.

(Mr CHAN Chi-chuen and a number of Members kept yelling in their seats)

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, I warn you once again that if you keep yelling in your seat, I will enforce the Rules of Procedure.

(A number of Members kept talking aloud, and some Members did not return to their seats)

(Security officers assisted Mr LAM Cheuk-ting to leave the Chamber)

PRESIDENT (in Cantonese): Will Members please return to your seats. If Members have different views about my decision, they may follow up through other channels.

(A number of Members continued to talk aloud, and some Members did not return to their seats)

(A number of security officers assisted Mr LAM Cheuk-ting to leave the Chamber)

PRESIDENT (in Cantonese): This is my final reminder. Members, please return to your seats.

(A number of Members continued to talk aloud, and Dr Helena WONG used her mobile phone to take video in her seat)

PRESIDENT (in Cantonese): Dr Helena WONG, please stop using your mobile phone to take video and stop yelling.

(Mr LAM Cheuk-ting kept yelling while a number of security officers continued to assist him to leave the Chamber, and some Members tried to obstruct them)

PRESIDENT (in Cantonese): I have to remind Members again that Members should not obstruct personnel of the Legislative Council in enforcing the President's order.

(A number of Members kept yelling. At this juncture, Mr Andrew WAN intended to walk to the President's pedestal but was stopped by a number of security officers)

PRESIDENT (in Cantonese): Mr Andrew WAN, if you do not return to your seat, I will regard your conduct as grossly disorderly.

(Mr Andrew WAN shouted aloud)

PRESIDENT (in Cantonese): Mr Andrew WAN, please leave the Chamber immediately.

(While a number of security officers were assisting Mr LAM Cheuk-ting and Mr Andrew WAN to leave the Chamber, Mr WU Chi-wai tried to stop them. At this juncture, a number of Members continued to talk aloud)

PRESIDENT (in Cantonese): Mr WU Chi-wai, please do not obstruct the personnel of the Legislative Council in enforcing my order.

(Mr LAM Cheuk-ting and Mr Andrew WAN left the Chamber with the assistance of security officers)

(A number of Members continued to talk aloud and some Members did not return to their seats)

PRESIDENT (in Cantonese): Will Members please return to your seats.

(Some Members requested to speak on the Second Reading)

PRESIDENT (in Cantonese): I have already made a decision on the debate arrangement. I will not allow Members to speak on the Second Reading.

(A number of Members remained standing, and Ms Claudia MO yelled aloud)

PRESIDENT (in Cantonese): Ms Claudia MO, I have warned you a number of times and this is my final warning. If you continue to yell in your seat, I will order you to leave this Chamber. Please be seated.

Mr Jeremy TAM, what is your point?

MR JEREMY TAM (in Cantonese): We can finally raise our points of order. According to the Rules of Procedure ("RoP"), the President should allow any Member rising to a point of order to speak on it. I do not know by virtue of which rule of RoP the President disallows Members rising to a point of order to speak. Is it because you knew in advance what I was going to ask that you disallowed me to raise any point of order? Please explain this first.

PRESIDENT (in Cantonese): First of all, Members may not rise if they are not called upon by me. Moreover, as a number of Members rose at the same time earlier, I would not handle the points of order raised at that time.

MR JEREMY TAM (in Cantonese): President, your statement is incorrect. Please specify which rule of RoP provides that Members may not rise without the permission of the President. Please look it up carefully.

PRESIDENT (in Cantonese): Members are basically not allowed to speak without the permission of the President.

MR JEREMY TAM (in Cantonese): Members may not speak, but they should not be disallowed to rise. By rising, Members mean to indicate to you their intention to speak. Please correct yourself because it is totally inconsistent with the provisions of RoP. RoP provides that Members rising ...

PRESIDENT (in Cantonese): I have explained in writing the arrangement for this debate ...

MR JEREMY TAM (in Cantonese): My question is not about the arrangement. President, do you know what I am going to ask?

PRESIDENT (in Cantonese): Hence, I will not allow Members to raise a point of order on this.

MR JEREMY TAM (in Cantonese): That is not the case because I basically have not yet raised any point of order. Under the Council procedures, when a Member rises, the President may first indicate to the Member standing and speaking to stop before calling upon the Member rising to request permission to speak to do so. This is the practice required by RoP. How can you possibly disregard it? Before I have asked any question, how can you possibly tell what point of order I am going to raise?

First of all, President, I request that you explain this. How can you possibly disallow Members rising to a point of order to speak, which is not in compliance with RoP? Please explain this first.

PRESIDENT (in Cantonese): To uphold order in Council, Members should follow the procedures of meetings ...

(A number of Members talked aloud in their seats)

PRESIDENT (in Cantonese): I have clearly explained the relevant arrangement in my written ruling.

Mr Jeremy TAM, do you have any other point of order?

MR JEREMY TAM (in Cantonese): This is not a point of order, but a matter of the provisions of RoP. You should explain to me why you do not abide by RoP, which provides that a Member rising to a point of order may interrupt another Member and then speak on his point of order?

President, you have not given an explanation on this part. I am not discussing your previous ruling with you.

PRESIDENT (in Cantonese): I have made a written ruling on the arrangement for the Second Reading debate.

MR JEREMY TAM (in Cantonese): Do you know what point of order I am going to raise?

PRESIDENT (in Cantonese): I will not allow Members to challenge my ruling by raising points of order.

MR JEREMY TAM (in Cantonese): President, you are imputing a motive to me. President, you are imputing a motive to me. I request that you withdraw your remark.

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, what is your point?

MR CHAN CHI-CHUEN (in Cantonese): President, I asked a question just now. I have asked many Members of the pro-establishment camp this question after reading your notice, but none of them could answer it. I raised a question to you, but you accused me of hindering the progress of proceedings by using points of order. My question is such a simple one. You simply have to answer "yes" or "no". Why did you accuse me of hindering the Council proceedings by using points of order?

PRESIDENT (in Cantonese): In the letter I issued to Members, I have clearly stated that 36 hours would be set aside for the debate and voting procedures of the Bill, but I have the discretion to make flexible arrangements subject to the progress of the meeting.

MR CHAN CHI-CHUEN (in Cantonese): No, President, I asked how much time is left now? Is the total duration of the Committee stage and the Third Reading 22 hours plus six hours? My question is that simple. Do you know how to answer me?

PRESIDENT (in Cantonese): I have set aside 36 hours for the examination of the Bill. I will make flexible arrangements subject to the progress of the meeting.

MR CHAN CHI-CHUEN (in Cantonese): I do not know how you will make flexible arrangements, and I do not know how should I prepare for the Third Reading debate.

PRESIDENT (in Cantonese): Secretary, please continue your speech.

(A number of Members spoke aloud in their seats)

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, apart from the aforementioned meeting sessions, we have also made detailed replies in writing in response to the written questions posed from time to time by the Legal Service Division of the Legislative Council and Members, also per the lists of follow-up actions prepared by the Legislative Council Secretariat based on the discussions among Members during meetings. In the course of the Bills Committee's scrutiny lasting just under three months alone, the Special Administrative Region ("SAR") Government has submitted to the Legislative Council Secretariat 37 letters in total in response to the requests made by Members and the proceedings of meetings, providing supplementary information on various aspects with a view to deepening the Bill Committee's understanding of the Bill and the co-location arrangement. These letters have been uploaded onto the Legislative Council website for public reference.

Besides, the Bills Committee has held two public hearings, on 17 March and 7 April 2018 respectively, on the Bill with a total of 218 deputations and members of the public in attendance. An overwhelming majority—190 in total—of the participants have expressly stated their support for the implementation of the co-location arrangement at the West Kowloon Station ("WKS") and the hope of an early passage of the Bill by the Legislative Council, an indication of public opinion that cannot be clearer. We have also arranged site visits to WKS for members of the Bills Committee—first on 27 February 2018 and again in March in light of the expanded membership of the Bills Committee with the entry of the four new Members—so that members could understand clearly the actual work processes of the co-location arrangement. All in all, the Bills Committee has held thorough discussions on the Bill, gained a clear understanding of the public views on co-location and has conducted site visits, in a meticulous, detailed and comprehensive process of scrutiny.

While it was inevitable that Members of different beliefs would hold contrasting views in the course of the Bill's scrutiny, those who have considered the Bill in a matter-of-fact manner with societal interests of Hong Kong and the long-term prospects of the young people at heart would presumably agree that co-location is indeed a measure that brings benefits and convenience to the people

and ease to cross-boundary journeys. During the resumed Second Reading debate, I have listened to the various views of Members and wish to take advantage of this open deliberation platform of the Legislative Council to clarify the position of the SAR Government, in a bid to deepen the understanding of the public of the co-location arrangement.

One major sticking points of the Bill concerns certain views in the community that question whether the implementation of co-location at WKS of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") is compliant with the Basic Law.

Adopting the "Three-step Process" in implementing the co-location arrangement is the fruit of repeated exploration and studies by the Central Government and the SAR Government over the years. Throughout the entire discussion process, both sides have all along agreed that the co-location arrangement must be consistent with the principle of "one country, two systems" and not in contravention of the Basic Law, addressing those issues relating to legal basis in a serious manner.

(A number of Members repeatedly chanted aloud: "Shame!")

As pointed out in a statement issued by the SAR Government on 29 December 2017, on the basis of respecting the Constitution, the Basic Law and "one country, two systems", the SAR and the Mainland have adopted the "Three-step Process" in taking forward the co-location arrangement. Step One—completed with the signing of the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("Co-operation Arrangement") by the Chief Executive of the Hong Kong Special Administrative Region ("HKSAR") and the Governor of Guangdong Province—reflects both the enjoyment of a high degree of autonomy by the SAR and the fact that neither the SAR nor the Mainland can implement co-location arrangement on its own. Step Two involves the Decision of the Standing Committee of the National People's Congress on Approving the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("the Decision") made by the Standing Committee of the National People's Congress ("NPCSC") on 27 December 2017.

Apart from respecting the national Constitution and the constitutional status of NPCSC, this step can also ensure that the co-location arrangement is ultimately consistent with the Basic Law. Step Three, through the local legislative process—i.e. the scrutiny of the Bill by the Legislative Council at the moment, fully reflects the autonomy of the SAR in handling the co-location arrangement. In the process, the Legislative Council and the various sectors in the community all have had opportunities to discuss the issue. Ultimately, it is up to Members to decide whether to pass the Bill, thereby taking forward the co-location arrangement.

In respect of the points of law of certain organizations or individuals repeatedly cited by some Members, we know full well that legal experts often have different views on the same issue, so it is naturally understandable that different persons may have different views about the legal reasoning behind co-location. That said, there are solid legal bases where the Co-operation Arrangement, the NPCSC Decision and the Bill are concerned.

As a matter of fact, the NPCSC Decision not only approved the Co-operation Arrangement but also confirmed its compliance with the Constitution and the Basic Law. The National People's Congress ("NPC") is the highest organ of state power, whereas NPCSC is the NPC's permanent body. The entire process leading to the adoption of the present Decision by NPCSC, which involves the SAR signing the Co-operation Arrangement with the Mainland, followed by submission by the State Council to NPCSC for examination, and then, following deliberations in group meetings, the adoption of the Decision by NPCSC by voting, is fully compliant with the constitutional process of the State. In other words, the present Decision is a decision made entirely pursuant to the national Constitution and related procedures. Hong Kong society should respect the constitutional status and authority of NPCSC as well as the decision made by it. It is precisely in accordance with the "Three-step Process" that the present Bill, pursuant to the NPCSC Decision, seeks to implement the Co-operation Arrangement in the SAR according to law.

I must stress that the SAR Government fully respects the rule of law. At the same time, it respects the national Constitution, the basic policy of "one country, two systems" as well as the Basic Law of HKSAR. In no way will the SAR Government, for any reason whatsoever—including those reasons speculated by some Members, disregard the Constitution, "one country, two system" or the Basic Law.

As regards the repeated depiction of the co-location arrangement by certain Members as a cession of our land in favour of the Mainland, which is a label most inappropriate, I wish to give a response here in the Legislative Council to set the record straight.

As officials of the SAR Government have repeatedly stressed in the past, there is no question of any cession or giving up of land under co-location. The reasons are obvious. According to Article 7 of the Basic Law, the land and natural resources within HKSAR shall be State property. The SAR Government shall be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development. The revenues derived therefore shall be exclusively at the disposal of the SAR Government. Hence, there is no question of the so-called cession of land by SAR in favour of the State.

To implement co-location, NPCSC stated in the preamble of the Decision that the establishment of the Mainland Port Area ("MPA") at WKS does not alter the boundary of the administrative division of HKSAR. Clause 6(1) of the Bill provides to the effect that MPA is to be regarded as an area lying outside Hong Kong but lying within the Mainland for certain purposes. Clause 6(2) of the Bill also expressly states that clause 6(1) does not affect the boundary of the administrative division of HKSAR promulgated by the Order of the State Council of the People's Republic of China No. 221, the actual purpose of which is to articulate an important point of law that the co-location arrangement does not affect the HKSAR boundary. Hence, there is neither legal nor factual basis underpinning the assertion that co-location will amount to a cession of our land.

Some Members questioned earlier in their speeches that, since the implementation of co-location at WKS is purely for the purpose of conducting clearance procedures for XRL passengers, why can we not confine the application of Mainland laws at WKS to those relating to clearance procedures, instead of adopting the co-location arrangement.

For the purpose of implementing the Co-operation Arrangement, the Bill reflects the consensus between HKSAR and the Mainland in respect of the applicable laws and the delineation of jurisdiction (including jurisdiction of the courts) in MPA under the co-location arrangement. In the scrutiny stage of the Bills Committee, the SAR Government has repeatedly explained to Members the relevant considerations, giving its response in writing so as to inform the public of the reasons involved. The co-location arrangement involves complicated constitutional, legal, operation and other considerations. The SAR Government

has thus conducted thorough studies and discussions with the relevant Mainland authorities. During the process, the SAR Government had once explored the idea of allowing Mainland officials to enforce only those Mainland laws relevant to Mainland clearance procedures in MPA of WKS. However, studies revealed that such an idea is infeasible.

(A number of Members chanted aloud: "Shame!")

(Mr HUI Chi-fung repeatedly tapped on the bench loudly)

PRESIDENT (in Cantonese): Mr HUI Chi-fung, I order you to leave the Chamber immediately.

(Mr HUI Chi-fung left the Chamber with the assistance of security personnel)

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): ... First of all, it is impossible to define in practice what Mainland laws are essential to enforcing the Mainland clearance procedures. This is because Mainland clearance procedures concern various matters, and numerous Mainland laws and regulations may be involved ...

(Holding a placard, Mr AU Nok-hin moved to a point behind the Secretary for Transport and Housing and talked aloud)

PRESIDENT (in Cantonese): Mr AU Nok-hin, please return to your seat.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): ... Secondly, allowing Mainland officials to enforce only those Mainland laws relevant to Mainland clearance procedures in MPA of WKS may lead to security issues and law enforcement problems, creating security loopholes in Hong Kong that cannot be overlooked and taken lightly. Specifically, by enforcing only those Mainland laws relevant to Mainland clearance procedures in MPA, Hong Kong laws will not be excluded from MPA and will therefore still be applicable ...

(Still holding the placard, Mr AU Nok-hin kept standing behind the Secretary for Transport and Housing and talked aloud)

PRESIDENT (in Cantonese): Mr AU Nok-hin, please return to your seat immediately or I will order you to leave the Chamber.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): ... As a result, there will be problems of overlap in laws and jurisdiction in MPA, giving rise to legal disputes and proceedings and incurring serious security risks for Hong Kong.

From the security point of view, it is most worrisome that offenders of serious offences or terrorists in the Mainland may mount judicial challenges against the law enforcement actions of Mainland law enforcement officers in the SAR courts (such as applying for habeas corpus, etc), which will increase the security risks in Hong Kong. Given that there is currently no surrender of fugitive offenders arrangement between SAR and the Mainland, the suspect in question—who could be a murderer or a terrorist—will be able to stay in Hong Kong instead of being transferred to the Mainland if the Courts of Hong Kong ruled in his favour. In this connection, this arrangement is unacceptable in the interest of Hong Kong's own security.

Based on the aforesaid reasons, allowing Mainland officials to enforce in MPA of WKS only ...

(Holding the placard, Mr AU Nok-hin walked to the back of the Chamber and stood there)

PRESIDENT (in Cantonese): Mr AU Nok-hin, I order you to leave the Chamber immediately.

(Mr AU Nok-hin left the Chamber with the assistance of security personnel)

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): ... Mainland laws allegedly essential to enforcing Mainland clearance procedures will result in confusion in jurisdiction. It poses serious security threats to Hong Kong and is also impracticable in actual operation.

Some Members argued that since the Government has cited the arrangement between the United Kingdom and France and the one between the United States and Canada as examples of co-location, why could we not enforce

only laws relevant to clearance procedures as the United Kingdom and France as well as the United States and Canada did in their arrangements. I wish to point out that the arrangement between the United Kingdom and France, or the one between the United States and Canada, is for pre-clearance only. The biggest difference of their arrangements as opposed to the implementation of co-location arrangement at WKS is that, unlike the arrangement between the United Kingdom and France, or that between the United States and Canada, where departure clearance procedures are conducted within their respective borders, Mainland departure clearance procedures are to be conducted outside the Mainland in an area within Hong Kong. It is precisely owing to this difference that enforcement of laws relevant only to clearance procedures in MPA will give rise to the security risks and confusion in jurisdiction I mentioned just now. The inapplicability of the pre-clearance arrangement in the case of Hong Kong is naturally self-evident once Members appreciated the difference.

Some Members have pinpointed the issue of the right to use the venues within MPA, even arguing that the local legislative process should not be launched as no account on the issue has been given by the Government.

As the SAR Government team has repeatedly explained in meetings of the Bills Committee, the delineation of applicable laws and jurisdiction (including jurisdiction of the Courts) in respect of MPA to be implemented by the Bill originates from the NPCSC Decision and the approved Co-operation Arrangement, and has no direct relationship to the acquisition of the right to use, duration and fees of the venues within MPA. These latter issues will be provided for by an agreement to be signed by the HKSAR Government and the relevant Mainland authorities.

Take the Shenzhen Bay Port as an example. The Shenzhen Bay Port Hong Kong Port Area Bill was introduced to the Legislative Council by the SAR Government on 6 February 2007 and was subsequently passed on 25 April 2007. The Shenzhen Bay Port Hong Kong Clearance Area Land Lease Contract, on the other hand, was signed by Hong Kong and the Mainland on 28 June 2007, three days before the commissioning of the Shenzhen Bay Port. Hence, in taking forward the co-location arrangement, there are precedents in respect of handling the issues of local legislation and the right to use the venues in tandem. In any case, the SAR Government is now in discussion with the Mainland on issues relating to the right to use MPA and will inform the public of the relevant development in due course.

Some Members felt that by going without a public consultation on co-location, the SAR Government has failed to listen to the concerns and views of the community.

Since the announcement of the co-location proposal on 25 July 2017, the SAR Government has done enormous work. Through the arrangement of the Legislative Council Secretariat, two meetings were convened during the summer recess. Apart from the special meeting of the House Committee on 3 August 2017 that was open to participation of all Members, the Panel on Transport, the Panel on Security and the Panel on Administration of Justice and Legal Services held a joint meeting just five days later, on 8 August 2017 to discuss the issue again. The Secretary for Justice, the Secretary for Security and myself have attended both meetings, giving comprehensive responses to the various questions posed by Members. Obviously, this type of exercise—where principal officials of the SAR Government, through direct communication and interactions with Members in open meetings, inform the public of the relevant arrangements in detail while listening to the views of Members who represent public opinion—is a consultation process.

On top of the two discussions on the issue in the Legislative Council in August 2017, the SAR Government has, before formally launching the "Three-step Process", moved on 26 October 2017 a non-binding motion for debate, allowing a full exchange of views between officials and Members in an open platform under the scrutiny of the public and the media of Hong Kong. The Legislative Council passed the motion on 15 November 2017 in support of the SAR Government taking forward the follow-up tasks of co-location. The result clearly reflected the opinion of the various sectors of the community.

In addition to the aforementioned views, I also noticed that some Members have mentioned the content of some of the amendments in their speeches. Given that once it passes Second Reading in the Legislative Council, the Bill will enter the Committee stage where its provisions and the relevant amendments will be examined, I will respond specifically to those issues later on. While those issues bear no direct relationship to the Bill, I still wish to state clearly here that the Government will continue to follow up and ensure the smooth and safe operation of XRL in the future.

(Mr KWONG Chun-yu stood on the bench and talked aloud)

PRESIDENT (in Cantonese): Mr KWONG Chun-yu, if you continue to stand on the bench, I will order you to leave the Chamber.

(Mr KWONG Chun-yu remained standing on the bench, requesting aloud to raise a point of order)

PRESIDENT (in Cantonese): Mr KWONG Chun-yu, I order you to leave the Chamber immediately.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): ... President, as I said in moving the Second Reading of the Bill in the Legislative Council on 31 January 2018, the co-location arrangement is a facilitation measure for cross-boundary transport by nature, and similar arrangements have been in place in other parts of the world. The arrangement deserves to be considered by the community of Hong Kong in an objective, fair and open manner, instead of with suspicion regarding the motive behind the Government's implementation of co-location, as some Members do. In all fairness, the XRL project, from planning, construction and now in trial operation, has gone through much controversy in the process. Today, with the commissioning of XRL just one step away, we hope that the rail can be commissioned smoothly, bringing to the people of Hong Kong a speedy, convenient and comfortable option of transportation. This is, presumably, not just the hope of the SAR Government, but that of the majority public in Hong Kong.

(A number of Members shouted aloud in their seats)

President, I implore Members to support the Bill and give the XRL commissioning a chance, thereby providing more convenience for Hong Kong people to travel in the future, expanding the room for development of all businesses in Hong Kong and creating brand new opportunities for ourselves and for the generations to come. Hong Kong owes its success as a regional transportation hub to keeping abreast with the times in the past, present and future, continuously developing transport infrastructure and maintaining close connections with the Mainland and the world. At a time when the development of high-speed rail is becoming an international trend, the commissioning of XRL will symbolize the march forward of Hong Kong's transport infrastructure in tandem with other advanced transport systems in the world, add a new chapter to

the transportation history of Hong Kong, provide better connection and unleash endless potential for Hong Kong, for us and particularly, for the younger generation.

I so submit, President.

(A number of Members remained standing and talked aloud, while some Members clapped and tapped the bench)

PRESIDENT (in Cantonese): Will Members please keep quiet. Mr KWONG Chun-yu, by standing on the bench and yelling, you have been behaving in a grossly disorderly manner. I have ordered you to leave the Chamber. Please respect the President's order.

(Mr KWONG Chun-yu kept standing on the bench and yelled)

PRESIDENT (in Cantonese): Mr KWONG Chun-yu, please leave the Chamber immediately.

(A number of security officers moved forward to assist Mr KWONG Chun-yu to leave the Chamber. In the meantime, a number of Members remained standing and spoke aloud)

PRESIDENT (in Cantonese): Will Members please return to their seats and keep quiet.

(Mr KWONG Chun-yu left the Chamber with the assistance of security personnel)

PRESIDENT (in Cantonese): Will Members please return to their seats.

(Mr Jeremy TAM stood up, intending to raise a point of order)

PRESIDENT (in Cantonese): Mr Jeremy TAM, what is your point of order?

MR JEREMY TAM (in Cantonese): Let me speak first, will you? I did not finish raising my point of order earlier. First, you imputed a motive to me. According to RoP 41(5), "A Member shall not impute improper motives to another Member." So why did you speculate that I had a motive in seeking to raise a point of order? Second, RoP 39(a) regarding interruptions provides that "A Member shall not interrupt another Member, except by rising to a point of order, when the Member speaking shall resume his seat and the Member interrupting shall direct attention to the point which he wishes to bring to notice and submit it to the President or Chairman for decision."

President, you kept telling me that I was not allowed to even stand up without your permission. Why can you violate RoP 39(a)?

Please explain this and why you imputed a motive to me. I had not raised any point of order yet at the time. I had been standing for nearly 10 minutes, raising my hand to indicate an intention to speak. I tried sitting down and standing up again, but you did not address me at all. Not only did you not deal with my point of order, you did not deal with those raised by other Members too. President, if you can ignore RoP, on what basis do you make your rulings? President, on what basis did you make the ruling that I was not allowed to rise to a point of order contradictory to RoP 39(a)? Will the President please answer.

PRESIDENT (in Cantonese): I need not answer this question because, as clearly explained in my written reply, the powers of the President of the Legislative Council come from the Basic Law. RoP serves to enhance, instead of curtailing, the powers conferred on the President by the Basic Law.

Does any other Member wish to raise a point of order?

(Mr Gary FAN raised his hand in indication)

PRESIDENT (in Cantonese): Mr Gary FAN, what is your point?

MR GARY FAN (in Cantonese): President, you should not apply double standards in presiding over meetings. When Mr Christopher CHEUNG was filming the proceedings with his mobile phone just now, a number of Members

immediately raised to you their points of order. Rather than addressing them, you evicted other Members from the Chamber instead. Handling the situation in such a manner is unreasonable and in effect an abuse of power. Please explain why you did that just now ...

PRESIDENT (in Cantonese): My ruling is not subject to debate. I saw just now that both Dr Helena WONG and Mr Christopher CHEUNG had filmed the proceedings with their mobile phones. I wish to remind Members that filming is not allowed inside the Chamber. Will Members please respect RoP. Mr Gary FAN, I have dealt with the point of order you raised.

Does other Members wish to raise a point of order?

PRESIDENT (in Cantonese): Dr Fernando CHEUNG, what is your point?

DR FERNANDO CHEUNG (in Cantonese): President, according to RoP 44, the decision of the President shall be final. That rule states that the decision on a point of order of the President in Council, the Chairman in a committee of the whole Council or the chairman of any committee acting in observance of RoP shall be final. However, RoP makes no mention that the decision of the President is not subject to debate, or that the President shall not allow Members to raise objections to the President's decision.

President, I wish to voice my objection to you ruling. During the Second Reading debate of the Bill, you denied 11 Members who have pressed the "Request to Speak" button the chance to deliver their speeches, depriving them of their right to speak. I take exception to this ruling of yours. Rather than debating with you, I wish only to put on record my objection to your ruling.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Tanya CHAN rose to claim a division.

PRESIDENT (in Cantonese): Ms Tanya CHAN has claimed a division. The division bell will ring for five minutes.

(While the division bell was ringing, a mobile phone went off)

PRESIDENT (in Cantonese): Will Members please switch their mobile phones to silent mode.

(While the division bell was ringing, Mr James TO stood up)

PRESIDENT (in Cantonese): Mr James TO, what is your point?

MR JAMES TO (in Cantonese): What is happening now? Are we in a curfew?

PRESIDENT (in Cantonese): Please repeat.

MR JAMES TO (in Cantonese): President, are we in a curfew now?

PRESIDENT (in Cantonese): We are not in a curfew now.

MR JAMES TO (in Cantonese): If not, why is it like this? Did you order the security staff to stand on guard like this?

PRESIDENT (in Cantonese): I did not make such an order.

MR JAMES TO (in Cantonese): If you did not make such an order, is it the decision of the security staff to stand here in the Chamber? Are we in a curfew now? Since the President did not order the security staff to stand in the Chamber, I reckon the Secretary General must take a serious look at this arrangement. Why should there be security staff standing on guard in the Chamber when nothing is happening?

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 Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Mr Vincent CHENG and Mr Tony TSE voted for the motion.

Mr James TO, Mr LEUNG Yiu-chung, Prof Joseph LEE, Ms Claudia MO, Mr WU Chi-wai, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr CHU Hoi-dick, Mr SHIU Ka-chun, Ms Tanya CHAN, Dr CHENG Chung-tai, Mr Jeremy TAM and Mr Gary FAN voted against the motion.

Dr Pierre CHAN abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

THE PRESIDENT announced that there were 63 Members present, 41 were in favour of the motion, 20 against it and 1 abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill.

Council became committee of the whole Council.

Consideration by Committee of the Whole Council

CHAIRMAN (in Cantonese): Council now becomes committee of the whole Council to consider the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill.

Members may refer to the Appendix to Part 1 of the Script for the debate arrangement for the Bill.

GUANGZHOU-SHENZHEN-HONG KONG EXPRESS RAIL LINK (CO-LOCATION) BILL

CHAIRMAN (in Cantonese): Members have been informed that the committee will jointly debate the clauses, schedules and amendments, including new clauses.

I now propose the question to you and that is: That the following clauses and schedules stand part of the Bill.

CLERK (in Cantonese): Clauses 1 to 8 and Schedules 1 to 5.

CHAIRMAN (in Cantonese): Mr Gary FAN, Mr CHU Hoi-dick, Mr CHAN Chi-chuen, Ms Claudia MO, Dr Fernando CHEUNG, Dr KWOK Ka-ki, Ms Tanya CHAN, Mr Dennis KWOK and Mr Jeremy TAM will move amendments. The proposed clauses to be amended include clauses 1, 2, 6, 7 and 8, and Schedules 3, 4 and 5, and the addition of new clauses to the Bill.

Members may refer to the Appendix to Part 1 of the Script for details of the amendments.

CHAIRMAN (in Cantonese): Members may now proceed to a joint debate on the clauses, schedules and amendments (including new clauses).

I will first call upon Mr Gary FAN to speak and move his first amendment, and then call upon other amendment proposers to speak, but they may not move amendments at this stage.

CHAIRMAN (in Cantonese): Upon the conclusion of the debate, the committee will first vote on Mr Gary FAN's first amendment, and then vote on the other amendments.

Mr Gary FAN, you may move your first amendment.

MR GARY FAN (in Cantonese): Power-abuser Chairman, I move my first and second amendments to amend clause 1, as set out in the Appendix to the Script. The amendments seek to delete "Short title and commencement" in the heading and substitute "Short title, commencement and expiry" and delete subclause (2) and substitute "(2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette, and expires on the day of the termination of operation of the Hong Kong Section of the Express Rail Link."

Politics is the affairs of all. When violence begins, politics end. The Chamber should be an important venue to solve problems, but the President abused his power today by unreasonably depriving some 10 Members of their right to speak at Second Reading in an attempt to force through the Bill. His use of

institutional violence is so evident that Hong Kong people can all see it clearly. Chairman, your groundless ruling and abuse of power will leave a stain in history. We can all see it clearly.

My amendment seeks to add an expiry date to the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") so that the leasing arrangement of the Mainland Port Area ("MPA") at the West Kowloon Station ("WKS") will terminate upon cessation of operation of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"), at which time the SAR Government will recover the jurisdiction over MPA immediately, so as to avoid the permanent loss of the jurisdiction over MPA after the commencement of the Bill which will indeed turn a lease into a permanent cession of territory.

Power-abuser Chairman, in the Government's written response, my amendment was classified as a sunset clause. However, contrary to other amendments regarding the sunset arrangement, my amendment sets no specific date. If the Government and pro-establishment Members cannot even accept this, people will wonder what is wrong with the Government because during the Bills Committee stage, the Bill was questioned as contravening Article 18 of the Basic Law which stipulates that "National laws shall not be applied in the Hong Kong Special Administrative region except for those listed in Annex III to this Law. The laws listed therein shall be applied locally by way of promulgation or legislation by the Region." How did the Government respond in writing? It actually added something on top of the intent of Article 18 of the Basic Law, which according to the Government is to restrict the general application of national laws to all persons within HKSAR so that the high degree of autonomy and the legal system of HKSAR would not be undermined. Therefore, there is no contravention of the Basic Law so long as the three criteria are met: Mainland laws are not applicable in the entire HKSAR; Mainland laws are not imposed on all persons in Hong Kong; and Mainland laws are not enforced by Hong Kong authorities in the entire HKSAR.

The Government believes that the territorial scope of the co-location arrangement is limited to MPA, instead of the entire Hong Kong, and that Mainland laws ...

CHAIRMAN (in Cantonese): Mr Gary FAN, I remind you that the content of your speech comes under the scope of the Second Reading debate. Council is now at the Committee stage, please speak on your amendments.

MR GARY FAN (in Cantonese): Chairman, I am speaking on my amendments. Please listen to the content of my speech apart from making a ruling just like a tape recorder. My speech is very clear and detailed. Chairman, please listen carefully before making any criticism.

The Government believes that territorial scope of the co-location arrangement is limited to MPA, instead of the entire Hong Kong; Mainland laws are imposed on XRL passengers in MPA mainly, instead of all persons in Hong Kong; and Mainland laws are enforced in MPA by Mainland authorities, instead of Hong Kong authorities. Therefore, there is no contravention of Article 18 of the Basic Law. This is the explanation given by Secretary Frank CHAN. If, according to the Government, the Bill only serves to meet operational needs of XRL, it should be specified in the Bill that it would lapse upon the cessation of operation of the Hong Kong section of XRL. Otherwise, the legislation would be effective permanently.

Chairman, this is the intent and core idea of my amendments. If the legislation continues to be effective upon the cessation of operation of XRL, the Government will eventually have to repeal it, or else it will be applicable to persons other than XRL passengers, and thus, rendering the Government's argument that it is not in contravention of Article 18 of the Basic Law untenable. Therefore, there is no reason for the pro-establishment camp to oppose my amendments, unless the Government and the pro-establishment camp have other motives, which I should not speculate. Unless they are using the co-location arrangement as a stepping stone for sabotaging "one country, two systems", or unless they do not intend to repeal the legislation even if XRL ceases to operate in the future, my amendments are completely justified and should be accepted.

Power-abuser Chairman, since the territory of MPA is leased to Mainland authorities under the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("Co-operation Arrangement"), it is only reasonable for the SAR Government to set a time limit. Otherwise, a

lease will turn into permanent cession of territory. The Convention between the United Kingdom and China Respecting an Extension of Hong Kong Territory under which the New Territories were leased to the United Kingdom was limited to 99 years. It is thus unreasonable if MPA is effective permanently without any lease tenure.

In its written response to my amendments, the Government stated that the Decision made by the Standing Committee of National People's Congress ("NPCSC") did not specify any expiry date for the implementation of the co-location arrangement, neither did the Co-operation Arrangement. Hence, setting an expiry date for the legislation will change the Bill's original intent of implementing the co-location arrangement by way of local legislation and deviate from the purpose of the Bill to implement the co-location arrangement under the "Three-step Process". The Government's response has undoubtedly negated the functions of the Legislative Council to enact, amend or repeal laws conferred by Article 73 of the Basic Law because the so-called "Three-step Process" is not simply sequential but also hierarchical. The Co-operation Arrangement signed in the first step cannot be amended through local legislation in the third step. The so-called "Three-step Process" actually means asking the Legislative Council to pass the Co-operation Arrangement submissively.

Chairman, I understand why you deployed so many security officers here to expel Members. It is because under the Government's "Three-step Process", the Co-operation Arrangement endorsed by NPCSC without any public consultation and consultation with the Legislative Council cannot be repudiated. Only NPCSC has the final say on the issue.

However, the Chairman seemed to disagree with the Government's views on the amendments because although you did not approve my seven other proposed amendments on the grounds that they are outside the scope of the Co-operation Arrangement, you did approve my two proposed amendments regarding expiry date. Of course, I still question the President's criteria in approving proposed amendments, but the Government does have the responsibility to give a clear response as to whether the local legislation stage can rectify the shortcomings of the Co-operation Arrangement, or whether only NPCSC in the first step of the "Three-step Process" has the final say, while the Legislative Council is nothing but a "hand-raising machine" for passing the Bill as it is without any amendment.

Power-abuser Chairman, Secretary for Transport and Housing Frank CHAN indicated that XRL is a long-term cross-boundary infrastructure and made the boastful pledge that they do not envisage XRL will cease to operate. He also said XRL connects ...

(Dr Junius HO indicated a wish to speak)

CHAIRMAN (in Cantonese): Dr Junius HO, what is your point?

DR JUNIUS HO (in Cantonese): I heard more than four times Mr Gary FAN call someone "power-abuser Chairman". I wonder who is the "power-abuser Chairman"? The content of his speech obviously violates Rule 41(4) and (5) of RoP, which stipulate that it shall be out of order to use offensive and insulting language about Members of the Council; and a Member shall not impute improper motives to another Member.

CHAIRMAN (in Cantonese): Dr Junius HO, you have made your point of order. Please sit down.

I remind Members to pay attention to the choice of words in their speech. I understand that some Members are more emotive today, but Members are required to abide by RoP when they speak.

Mr Gary FAN, please continue.

MR GARY FAN (in Cantonese): I thank Dr Junius HO, who claimed to have practised in the United Kingdom, for his reminder. The Secretary for Transport and Housing said that he would not anticipate an end date of XRL and that XRL connects with the national and even global network and is very conducive to the long-term development of Hong Kong, thus seeing no need to make a sunset clause. But indeed is there a perpetual railway that will never stop operation? It is absolutely detached from reality and irresponsible to say that an end date is not to be expected. Secretary Frank CHAN should be criticized for it.

As a matter of fact, in 2009, the SAR Government submitted to the Legislative Council the patronage forecast, economic benefit and operational viability of XRL, which only gave a forecast for the total economic benefits over 50 years of operation of XRL. Let us put aside whether the forecast for the economic benefits is accurate, the SAR Government, to date, has failed to guarantee that XRL will not suffer any loss after 50 years of operation. The Government said it does not anticipate an end date of XRL operation, meaning it will persist with the operation of XRL even it keeps suffering losses for 50 years. It is extremely irresponsible. Secretary Frank CHAN shall bear the consequences.

The Government cannot guarantee the operational benefits 50 years later, so it is totally legitimate to add the provision that the ordinance "expires on the day of the termination of operation of the Hong Kong Section of the Express Rail Link" to the Bill. Even if the Hong Kong Section of XRL, as suggested by Dr Junius HO who claimed to have practised in the United Kingdom, will operate until the end of time, there should be a limit on the lease right. The SAR Government is unable to guarantee that there will continuously be a consensus with the Mainland Government regarding rents or other terms of the lease contract. Should Hong Kong or any other party in the Mainland wish to revoke the lease contract, thus effecting the termination of the operation of the Hong Kong Section of XRL, likewise relevant provisions are required to address the revocation of the co-location arrangement so as to avoid any breach of the Basic Law.

The Government has all along been promoting the co-location arrangement by analogy with the co-location arrangement of designating an area in the Shenzhen Bay Port on the Mainland as the Hong Kong Port Area. However, the Shenzhen Bay Port Hong Kong Port Area Bill, which was drafted for the sake of implementing the co-location arrangement in the Shenzhen Bay Port, contains a sunset clause stipulating that the ordinance shall expire at midnight on 30 June 2047. Such a day is the limit on the period of the land use right of the Hong Kong Port Area on the Mainland acquired by Hong Kong by way of lease. As the SAR Government considers that the co-location arrangement of XRL is formulated by drawing reference from its counterpart of the Shenzhen Bay Port, why is the proposal for the Hong Kong Section of XRL not made by drawing reference from the sunset clause contained in the Shenzhen Bay Port Hong Kong Port Area Bill? What are the reasons? When the Bill was in the Bills Committee, Secretary Frank CHAN said that drawing reference did not mean

exact copying. In this way, exactly which parts are determined by drawing reference from the Shenzhen Bay Port? What criteria did the Government adopt? The Government did not give any explanation to the Bills Committee.

Therefore, the absence of a sunset clause in the Bill begs doubts about the Mainland Port Area ("MPA") in the West Kowloon Station ("WKS") being permanently ceded on the pretext of a so-called endless lease, which is in effect a blatant cession of land. It is the very reason for our oft-emphasis on the "cession-based co-location arrangement" that leases MPA without end. Within the few years when Secretary Frank CHAN has been in office, he will have permanently ceded MPA in WKS in Hong Kong to the Mainland.

Power-abuser Chairman, I consider the nine amendments proposed by me totally relevant to the Bill, interrelated and pertinent to major principles. I attempted to turn the tide and kept the existing drawbacks of the co-location arrangement to a minimum by, among others, limiting the jurisdiction of the Mainland governments over MPA to immigration control and customs clearance procedures and retain the jurisdiction of Hong Kong except immigration control and customs clearance procedures, and regarding a train compartment of a passenger train in operation as within Hong Kong. Regrettably, they were all ruled inadmissible by the President on the grounds of them being inconsistent with the Co-operation Arrangement. Only the two amendments I have referred to in my speech now were ruled admissible. However, I cannot approve of other contents of the Bill, so I will still fundamentally oppose the Bill on the "cession-based co-location arrangement" and cast a "No" vote at Third Reading.

Chairman, I so submit. I should say: Power-abuser Chairman, I so submit.

Proposed amendment

Clause 1 (See Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the first amendment moved by Mr Gary FAN be passed.

MR CHU HOI-DICK (in Cantonese): Mr Andrew LEUNG, I saw online from the "Bastille Post"—that is, one of the pro-Government websites—an article published in 2015 alleging that KIM Jong-un, North Korea's dictator, sentenced HYON Yong-chol, the second-highest military figure, to death, who was even publicly executed with an anti-aircraft gun, for dozing off next to him and answering him back on several occasions.

In fact, the tolerance of all dictators is not without limits. At the beginning, such dictators might give people the liberty to make one or two casual remarks so as to earn plaudits for being civilized. But when they run out of tolerance, they will turn hostile heartlessly. North Korea has never been normal, where people are executed by dogs and anti-aircraft guns. The Communist Party of China ("CPC") is actually a bird of the same feather. All along, Hong Kong is a place at its mercy. In fact, over the past few years, it has started to turn hostile. Purse-proud and inflated of insolence, it has gone hostile. It may do whatever it likes to the so-called "one country, two systems" or the Basic Law, either tearing it apart or using it as toilet paper ...

CHAIRMAN (in Cantonese): Mr CHU Hoi-dick, I remind you that the Committee is now considering the clauses of and amendments to the Bill. Please do not deviate from the question under debate currently before the Committee.

MR CHU HOI-DICK (in Cantonese): In this time when CPC reneges on its promise of "one country, two systems" and tramples on its own Basic Law, there will always be a large cheering team formed by "flunkies", "lackeys" and "traitors to Hong Kong" who cheer in support. I will not name them, but Members may make guesses. If anyone wishes to take it personally, please go ahead.

The Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") is now at the Committee stage. I wish to tell members of the public in Hong Kong that this is already the third stage. We have gone through the first discussion on adjournment of the debate, seeking to adjourn the debate direct because further discussion will land us in trouble. Back then, I already pointed out why further discussion on the Bill would land us in trouble. The reason is that it has applied the CPC logic of "the Party overriding the law", arbitrarily deciding whether to invoke the provisions of the Constitution of the

People's Republic of China. For this reason, our discussion must not proceed. Once we proceed with our discussion, such logic will get its way into Hong Kong, thereby opening the Pandora's box.

What followed back then was the Second Reading debate. Specifically, Members are well aware of the reason why the Bill has raised a storm of controversy. Needless to say, the reason is its apparent conflict with the clear provisions of the Basic Law ...

CHAIRMAN (in Cantonese): Mr CHU Hoi-dick, I remind you that you have strayed from the question on the examination of the Bill by the Committee. If you keep digressing, I will stop you from speaking. Please continue to speak on the question of this debate.

MR CHU HOI-DICK (in Cantonese): Mr Andrew LEUNG, you have driven out all those whose speeches are not to your liking. Please do not go too far.

How far have we gone at the Committee stage now? We have reached the point where we are no longer able to vote down this debate once and for all, nor are we able to point out generally how the Bill would contravene the Basic Law. As Members can see, Members from the pro-democracy camp still press on with the debate with them even at this stage. The reason is that seeing such "flunkies", "lackeys" and "traitors to Hong Kong" hurt Hong Kong with this Bill, we have to come up with ways to reduce such harm. This is the fundamental purpose of the 20-odd amendments. As members of the public may not know what we are doing, let me briefly raise a few points.

The first point concerns the commencement date and the expiry date. Simply put, given that the co-location arrangement will obviously contravene the Basic Law, blatantly bringing in a team of armed Mainland law enforcement officers in addition to the vague details, we request that the Government set out the circumstances in the Bill. But it has refused, being only willing to set them out in the schedule to the Co-operation Arrangement. Such armed officers will be deployed to Hong Kong to enforce their laws. For such a major initiative, I certainly think that the later it is implemented, the better. Ms Claudia MO has therefore proposed an amendment requesting that it be implemented a year later.

Another point concerns the expiry date. The expiry date serves a simple purpose. Given that it is a draconian law trampling on the fundamental rights of Hong Kong people, allowing a team of Mainland public security officers and armed police officers who are not supposed to be seen in Hong Kong to patrol in the territory of Hong Kong with firearms, the harm will certainly be kept at a minimum with a shorter effective period. For this reason, Members have proposed several amendments seeking to set an expiry date. For example, I have proposed that it expires in 2021; Dr Fernando CHEUNG has proposed that it expires in 2023; Mr CHAN Chi-chuen proposed that it expires in 2047—which I consider a bit late—while Mr Gary FAN has proposed that it expires on the day of the termination of operation.

In proposing that it expires in 2021 or five years later, I actually mean to leave us a way out, so that Hong Kong people will not realize the gravity of the situation only after its commissioning. At present, they have not come forth as they are unaware of the serious nature of the problem, or that they have been brainwashed by the opinion surveys conducted by the Democratic Alliance for the Betterment and Progress of Hong Kong, the mainstream media or Mr Frank CHAN. But after its commissioning, they may find something wrong, wondering why armed police officers and public security officers from the Mainland will be seen wagging their batons in the territory of Hong Kong. We have therefore proposed that it expires in 2021 and the immigration clearance be conducted at Futian instead. In fact, it will be equally effective. Our "Co-location Concern Group" has repeatedly indicated that the implementation of the co-location arrangement at Futian will be equally effective, and setting an expiry date will serve to reduce the harm.

Second, I find the amendment proposed by Mr CHAN Chi-chuen very desirable, which offers a novel perspective on the issue. According to him, there is currently no penalty for armed police officers and public security officers from the Mainland leaving the Mainland Port Area ("MPA") for any area outside the XRL station. They may come out any time they wish without anyone noticing it. They will only be subject to internal sanction at worst. Mr CHAN Chi-chuen has therefore proposed severe penalties, i.e. a fine of \$10,000,000 and imprisonment for 30 years. Members should not think that it has gone too far because the key purpose is to stop further harm from being done as a result of their leaving MPA.

Moreover, I find the amendment proposed by Mr Jeremy TAM also very desirable. In fact, at the stage of the Bills Committee's deliberation, one important task for us is to ask, on behalf of members of the public in Hong Kong, whether the co-location arrangement of XRL will become a precedent also applicable to other ports. Will different areas in Hong Kong be ceded? Mr Frank CHAN and the Secretary for Justice will certainly say that they have no idea because they are not the master. As long as it is an order from the master, even if they are told to dive into a swimming pool, they will obey immediately without questions. Mr Jeremy TAM's amendment seeks to specify that the relevant arrangement will not apply to any other railway, so as to contain the harm.

I am certainly mindful of Dr KWOK Ka-ki's amendment, which is arguably most important to me. His amendment proposes the application of the Hong Kong Bill of Rights Ordinance to MPA. I really do not see why Mr Andrew LEUNG has ruled this amendment admissible. Under Article 4 of the Co-operation Arrangement, the laws of the Mainland apply in MPA. Then how should the Hong Kong Bill of Rights Ordinance ("BORO") be dealt with? Does BORO apply as a reserved matter, or does he consider that it should be reinstated? An example is that after a part of Hong Kong has been ceded as MPA where the laws of the Mainland apply, Mr Andrew LEUNG has now created a new opening. It is like deploying an emergency unit to declare that BORO is in force, thereby preventing such Mainland practice in breach of human rights as forcible taking or detention of people for several years without any accountability. I really cannot tell whether you do so out of good intentions, but I guess not. Hence, I have no idea whether it is a mistake you made or anything else.

I will talk about it further next time granting the opportunity. In fact, the amendment proposed by Dr KWOK Ka-ki seeks to give Hong Kong people a shield, i.e. the various protection stated in BORO, including freedom of opinion and expression as well as liberty and security of person, as a shield for Hong Kong people against the original clause providing that "the laws of the Mainland will apply in MPA except for reserved matters", which is confusing and vague.

Hence, we must take a careful look. At this stage, the pro-Government Members certainly dare not utter a word—I should say, they dare not propose any amendment—because it is an "imperial edict". Could it be possibly drafted by Hong Kong people? It is certainly drafted by Beijing and then handed down to

them, to which no change is allowed. Hence, I can understand why they have not proposed any amendment. But they can also see the several purposes of these 20-odd amendments proposed by Members from the pro-democracy camp, seeking to reduce the harm, prevent further harm, contain the harm and give Hong Kong people a shield of protection of their rights. I cannot tell whether I should actually propose any amendment because, as it will definitely run into opposition by them, should I still go this far?

These 20-odd amendments are now placed on Members' desks. Facing such a controversial Bill, can the Legislative Council put itself in the shoes of members of the public, putting up some defence for Hong Kong people through these amendments? Even if it is a good Bill from the perspective of certain Members, a large number of members of the public think the opposite now. How can they possibly not put themselves in the shoes of Hong Kong people to reduce the harm brought by this Bill? These 20-odd amendments will tell us whether the Legislative Council may, while CPC reveals its brutal nature as a dictator, still stand on the side of Hong Kong people to reduce the harm. It is left to the decision of all Honourable Members, and I particularly hope these amendments will somewhat awaken the conscience of the pro-Government Members and get their support.

MR CHAN CHI-CHUEN (in Cantonese): The Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") has now entered the Committee stage. During the Second Reading, I spoke with a heavy heart when Hong Kong people might not understand what was going on at that time. Everyone can see that the Second Reading debate today can be described as the ugliest in the Legislative Council, before and after 1997. Pro-democracy Members are well aware that even if they propose numerous Committee stage amendments, the latter will eventually be negated. We only requested to have one opportunity to speak during the Second Reading debate, but still many Members were not given an opportunity to speak in the end. Why did the situation become so chaotic just now? It was because Mr Andrew LEUNG disallowed Members who had not spoken to speak once.

This Council has now proceeded to the Committee stage. Just now, the Chairman pointed out that a joint debate would be conducted on various clauses, schedules and amendments, including new clauses. Hence, Members may not only speak on the 20-odd amendments, but also express their views on the clauses

of the Bill, including its Long Title, preamble, schedules and even plans. When debating Bills in the past, this Council would usually pass clauses without amendments before debating those with amendments and allowing Members to speak. Therefore, Members who will speak later on just need to point out the clauses they wish to speak on before delivering their speeches. They do not necessarily need to focus on the 22-odd amendments.

This time around, I have managed to propose three amendments. That said, the contents therein are actually more than three amendments. My first amendment seeks to amend the commencement date stated in section 1(2) of the Ordinance. My second amendment seeks to amend definitions in clause 2 by adding the definition of "Mainland Authorities Stationed at the Mainland Port Area" to it. My third amendment is quite complicated as it seeks to add new Part 4, including new clauses 9, 10, 11 and 12 to introduce offence provisions and provide for penalties relating to the personnel of the Mainland Authorities Stationed at the Mainland Port Area, involving the entry into any area outside the Mainland Port Area ("MPA") or aiding, abetting, counselling or procuring, or conspiring with another person, thus causing an officer of the Mainland Authorities Stationed at Mainland Port Area to enter any area outside MPA, as well as providing for penalties relating to obstructing Hong Kong personnel from carrying out duties at MPA. The last amendment, which concerns the expiry date, provides that the Ordinance shall expire on 30 June 2047, or when MPA and the Hong Kong Section of the Express Rail Link have not been in operation for 365 days consecutively.

At this point in time, I have no idea how long Members are allowed to speak during the Committee stage as it depends on the number of Members who wish to speak. Members used to be allowed to speak for an unlimited number of times so long as they did not repeat the points already covered or stray from the subject. But they are now subject to a 22-hour restriction.

I was the first Member who rose to ask this question: Is the time allowed for the debate limited to 22 hours? I saw someone shaking his head. I was only asking such a simple question. Just say "yes" if the answer is affirmative and "no" if it is not. No one dared answer me. Why did I ask such a question? As I pointed out earlier, besides my own amendments, I can also speak on the amendments proposed by other Members as well as clauses without amendments. I can even speak twice on the Long Title. But now, I have no idea how to make time arrangement for the debate. Chairman, you ought to let me know your

arrangement and clarify if the 36 hours take into account the previous motion for adjournment of debate. If it is not, and the time for the debate is really 22 hours plus six hours, then you should let me know. I had thought about it for a while before I went to ask someone and finally came to understand that the Chairman probably thought that 22 hours would be more than enough after expelling Members from the Chamber.

First of all, I wish to explain that I believe clauses 9 and 10 are the most controversial amendments, as most questions raised by Members were about these two amendments. Under these two clauses, any Mainland law enforcement officers who enter any area outside MPA or aid those Mainland law enforcement officers to enter any area outside MPA shall be penalized. Some people consider my proposed penalty, that is, a maximum fine of \$10,000,000 and imprisonment for 30 years, too heavy. Just now, I heard a pro-establishment Member say that even a rioter will be sentenced to imprisonment for 30 years only. Members who wish to debate with me should examine this issue at two levels. Insofar as the first level is concerned, are the penalties introduced by me sensible? Did the Government fail to provide for these penalties out of negligence, thereby making it impossible to enforce the clauses and pose deterrence? These are the questions at the first level. Insofar as the second level is concerned, are the penalties too heavy? Are these just random figures? Granting the time, I will explain later why I propose these two figures, that is, a fine of \$10,000,000 and imprisonment for 30 years.

(THE CHAIRMAN'S DEPUTY, MS STARRY LEE, took the Chair)

I hope Members can look at this amendment proposed by me calmly at two separate levels regarding whether penalties should be prescribed. Is the Member proposing penalties vexatious or ill intended or is it because the Bills Committee has made an inadvertent mistake? Why did the Legislative Council not consider or ask the Government whether penalties should be proposed in the Bill? By proposing these two amendments, I merely seek to mete out harsh punishment to Mainland law enforcement officers for entering any area outside MPA. This amendment is regarded by some as scourge probably because they think that I have offended Mainland law enforcement officers considered by them as sacrosanct or mistake-proof. It is most laughable that whenever Members make such remarks in the Bills Committee, the Secretary for Security would tell them

that officers in MPA would not do so. Of course, we know that they will not do so, but what should we do if they really do? In that case, penalties should be prescribed. As I said just now, doing so can plug the two major ambiguous loopholes in the Bill, including whether Mainland officers can enter any area outside MPA—it is not stated too clearly in the Bill—and whether these officers will face legal sanctions in Hong Kong should they obstruct Hong Kong officers from carrying out duties at MPA. I will deal with these issues when I come to my amendment in relation to clause 11.

Before explaining the penalties for entry into any area outside MPA by Mainland officers, I must point out that this amendment has aroused opposition from some pro-China or pro-communist media, as well as Members of this Council. They cannot wait for the debate today and have already advanced many reasons for objection. I hope they can do some homework before raising objection and criticizing my amendment.

For instance, a Member criticized this amendment of mine in a newspaper hysterically earlier, saying "Mr CHAN Chi-chuen's amendment is rabble-rousing for Mainland officers may be punishable by a fine of \$10,000,000 and imprisonment for 30 years should they enter any area outside MPA. Such being the case, can the Mainland impose the same penalties if Hong Kong officers enter any area inside MPA?" Deputy Chairman, judging solely from these remarks, we can already tell that this Member is not only incompetent, but she must have been dreaming over the past two months without paying any attention to what was going on in the Bills Committee. Has she seriously studied the Bill even though it was introduced by the Government a couple of months ago?

According to the Co-operation Arrangement, Hong Kong personnel with permits issued by Hong Kong may enter MPA to carry out duties. Meanwhile, Article 6 of the Co-operation Arrangement provides that Mainland personnel shall not enforce law in any area outside MPA—the following sentence is very important—officials have undertaken in the Bills Committee that Mainland personnel will not be permitted to enter any area outside MPA. On the other hand, if granted approval, Hong Kong personnel may enter MPA to carry out duties, and they will not be penalized for entering MPA. According to the Co-operation Arrangement and the Government's undertaking, Mainland personnel shall not enter any area outside MPA under whatever circumstances. However, this requirement can only be found in Article 6 of the Co-operation Arrangement. Not only is it not set out in the principal clauses of the Bill, penalties are not prescribed regarding breach of the undertaking.

I have therefore proposed amendments to clearly set out the relevant requirements and clearly define the penalties to reflect the severity of violations. Would those Members please study harder. They should read the Bill from cover to cover rather than reading *Wen Wei Po* and *Ta Kung Pao* only. The reason for me to propose the amendments is to clearly spell out in the primary legislation the requirement of prohibiting Mainland law enforcement officers from landing in Hong Kong in order to remove ambiguities and plug the unnecessary loopholes. According to Article 6 of the Co-operation Arrangement, law enforcement officers from authorities stationed by the Mainland shall not enforce law in any area outside MPA. This provision appears to be clear but actually it is not. It merely provides that officers from authorities stationed by the Mainland have no power to enforce law in any area outside MPA, but fails to state clearly whether these officers have the power to enter any area outside MPA even though they have no power to enforce law there.

Members may refer to paragraph 138 of the Bills Committee report. It was stated clearly in the Bills Committee that "the Mainland law enforcement officers shall not be permitted to enter any area outside the MPA and have no law enforcement powers outside the MPA pursuant to the Decision and the Co-operation Arrangement". In other words, not only will the Mainland law enforcement officers have no law enforcement powers, but they will not be allowed to enter any area outside MPA. It can thus be seen that although there are ambiguities in Article 6 of the Co-operation Arrangement, the Government stated the legislative intent very clearly in the Bills Committee that not only will the Mainland law enforcement officers not be allowed to enforce law in areas outside MPA, but they will not be allowed to enter any area outside MPA. Nevertheless, the requirement that Mainland law enforcement officers will not be allowed to enter any area outside MPA under whatever circumstances is not stipulated clearly in the primary legislation. Neither is there a single word in the primary legislation stating that Mainland personnel will not be allowed to enter any area outside MPA.

The pro-establishment camp will probably say that Article 4 of the Co-operation Arrangement provides that except for the matters provided for in Articles 3 and 7, other Articles, including Article 6, are regulated by the Mainland in accordance with the Co-operation Arrangement and under Mainland laws. Such being the case, is it still necessary for Members to state the obvious by

including this requirement in the Bill through introducing amendments? I certainly consider it necessary to do so because I consider the Government's approach ambiguous.

Although the Hong Kong Government has made it clear that Mainland law enforcement officers will not be allowed to enter any area outside MPA, this is not stipulated clearly in the primary legislation. Meanwhile, the Immigration Department is expressly empowered by the Immigration Ordinance to authorize any persons to land in Hong Kong. Given that Mainland law enforcement officers are not expressly prohibited from entering any area outside MPA when they are not enforcing law, will the Immigration Department authorize these officers to enter areas outside MPA in future to, for instance, have a meal or go to a restaurant in West Kowloon without having any law enforcement power? Not only will this breach the pledge made by the Government in the Bills Committee, but it is also contradictory to the legislative intent.

Should the Government have the power to authorize MPA officers to enter areas outside MPA, even if these officers have no law enforcement power, many negative impacts might still be caused. Since time is running out, I cannot give Members a detailed explanation in this session. Simply put, some officers might even go to Hong Kong for shopping or trading parallel goods after work. As such, I consider it necessary to introduce penalties provisions.

MS CLAUDIA MO (in Cantonese): Deputy Chairman, as a result of this highly controversial Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill"), the Legislative Council has been turned into a circus by the "bootlicking pro-Government camp". Of course, this is made possible only with the coordinated efforts of such high-ranking officials as Mr Frank CHAN in giving an all-out and devoted performance. This is very regrettable but I have no intention whatsoever of causing any offence. Nevertheless, Mr Andrew LEUNG is really the most successful "poker-faced clown" in the history of the Legislative Council. He thinks that he has written to all Members in his position as the President to explain his decision. Is a letter written by him the same as the *Bible*? Sheer nonsense!

It is true that according to the Rules of Procedure, the President's ruling shall be final and shall not be challenged, but does this mean that no debate is permitted? Just now, Mr CHAN Chi-chuen wanted to raise a question but the

President did not even allow that, saying that he did not have to answer his question. It is all right to take videos but it is not all right to bang on the bench. Nonsense! If he wants to impose a curfew so badly, maybe he can impose it and around each person, maybe ...

DEPUTY CHAIRMAN (in Cantonese): Ms Claudia MO, I have to remind you ...

MS CLAUDIA MO (in Cantonese): I need no reminder from you. Your plastic face is a major feature of the Legislative Council and you are one of the members of the circus ...

DEPUTY CHAIRMAN (in Cantonese): Committee is now examining the provisions of and the amendments to the Bill, so you should not make use of this time to criticize the rulings made by the President earlier on. Please come back to the subject of this debate.

MS CLAUDIA MO (in Cantonese): This controversial railway is only 26 km long and compared to the more than 20 000 km of high-speed rail throughout the country, this is really nothing, so why is the construction cost so high? Because it was designed to pass through the ground beneath the busiest and most densely populated urban area of the Kowloon Peninsula and this is why things have come to such a pass. Now, controversies have arisen—do not say I have strayed from the question—so I propose that the Bill commence operation only one year after its passage. Why is it necessary to wait for one year? Now, let me tell you all about this matter, starting from the very beginning. You shut up. When you have nothing better to do, do not say that I have strayed from the question. Idiot!

The most important thing about this Bill is the legal issues and the Chairman of the Bar Association of Hong Kong came here personally to appeal to the Legislative Council not to—nor does it have the power to—pass an unconstitutional Bill, that is, one that violates the Basic Law. Where is the Secretary for Justice now? She is not here. This is also obviously a campaign to bind or re-integrate Hong Kong with the Mainland. Where is that Secretary for Constitutional and Mainland Affairs now? He is not present either. The

entire XRL is surrounded by such great controversy or so many controversies, so who is responsible? Oh, this is purely a transport issue. This being purely a transport issue, let the Secretary for Transport and Housing—his Policy Bureau should actually be called the "outrageous bureau"—Members can look at the kind of attitude aired by Frank CHAN. He held the microphone to his mouth and was talking nonsense. It did not matter that Members were shouting at him. He continued to read from his script all the same and so long as the time had passed and it was recorded on video that he had finished reading his script, the Bill can then be passed. How can an official be so lacking in character and breadth of mind?

Among the various amendments, I agree with the amendment proposed by "Slow Beat", or Mr CHAN Chi-chuen, the most of all. This is indeed a cause for concern. If Mainland law enforcement officers enter the Hong Kong side, thus leaving the area where they may perform law enforcement duties, who knows if they would try to waggle their baton around or not? There is no knowing. This is the in thing nowadays. The bootlickers cozying up to Beijing often say, "We practise 'one country, two systems' but 'one country' comes first.". Mainland law enforcement officers stand for "one country" and in entering the area belonging to Hong Kong—there is no need to say specifically that it is the "non-Mainland Port Area"—after entering the areas belonging to Hong Kong, they think they are more important and that they represent "one country" and you represent "two systems". In that case, are they superior than you and will they waggle their baton around? It is stated explicitly that they should not enter it but if they still do so, what can be done? Therefore, it must be stipulated clearly that there are penalties.

Although I still could not hear this clearly just now—or Mr CHAN Chi-chuen did not have enough time to talk about it—the penalties proposed by him seem to be a bit too heavy, with a maximum fine of \$10 million and a term of imprisonment of 30 years, Members can understand what he is trying to say. The penalties are one matter. If you think that they are going too far, this can be discussed further. However, how can there be no mention of them whatsoever? If Mainland law enforcement officers walk into Hong Kong, what can be done? What are the consequences? The authorities should not say that this probably would not happen, that they would not come over, that is, they cannot answer a hypothetical question, just as Carrie LAM said she would not answer any frivolous question, that is, hypothetical questions do not fetch hypothetical answers. However, this is not so. This is a fundamental security issue.

I propose that the authorities wait, that is, before the legislation commences operation, they have to wait for one more year and clearer provisions should be laid down. Why is it necessary to wait for one year? Because this is a neat figure. I also have several arguments for proposing a period of 360 days later. This is because there are legal problems and also problems of engineering technicalities. Most important of all, there are political problems. I am going to discuss them with you in detail.

At the legal level, initially, Eva CHENG was still willing to come to the Legislative Council to do some explaining—although she would always lower her head and read from her script, with her nose touching the script and it was not possible to even see her eyes, and she kept on reading out this and that, giving the appearance of talking about legal opinions—ultimately, all right, since she said there was such a great need and apart from the basic procedures of quarantine and clearance, it is necessary to have Mainland law enforcement officers here and Hong Kong has to cede an area, a space for them to enforce the law, in that event, can the authorities undertake that this is a one-off instance that will not be repeated? Is it possible to say that this is only one-off? However, they said that they could not say so. If you still want to speak in defence of the authorities, saying that they did not simply say, "No, this cannot be done" but only said, "Wait, this would not be done casually. Does anyone think it is fun to do so?"—this is the meaning expressed by Rimsky YUEN at that time, although he did not use those words but what he meant was that the SAR Government would not do so casually—my concern is precisely about them not doing so casually but very solemnly by applying the same set of the so-called legal concepts to other areas. This can also be done in the West Kowloon Cultural District, can it not? There is no telling if this would be done. It is also possible to apply this to the Central District. The Central District can come under the Mainland's commercial jurisdiction, whereas the West Kowloon Cultural District can come under the Mainland's cultural jurisdiction and the wetland can also come under the Mainland's conservation jurisdiction. This is all possible. The Government will have done this and set a fine precedent, so just put old wine in new bottles and implement the same thing again in more or less the same pattern. Why not?

This is a great misgiving but you may say, "It does not matter. Do not be so worried. Believe in the Government. At least in the next decade or two, this kind of thing would not happen again and this is done perhaps only on this occasion. It has been said that this is probably one-off." What was said was only "probably" but "probably" is not an undertaking. What is done cannot be

undone, once the Bill is passed, it is passed and there will be no use crying over spilt milk. How can one recover the spilt milk from the ground? In view of this, we must by no means do this. From the angle of the rule of law, this is a very terrible idea. Unless the Government tells Members that it will continue to consider this matter carefully, saying that this will not become a dangerous precedent and that this will not happen again, this is the fundamental legal ... I have already made huge concessions and I am not going to wrangle with the Government over whether "co-location" is tantamount to "cession-based co-location arrangement" or not. Of course, I believe this is "cession", "cession"! However, in the final analysis, we do not have a sufficient number of people and when it comes to the vote, the "bootlicking pro-Government camp" will surely pass the Bill. This could not be helped. However, in addition to our being unable to do anything, the Government has also received the backing of the power-abuser, Mr Andrew LEUNG. Just now, after the voting, they clapped hands and banged on the bench and according to the latest assertion of Mr Andrew LEUNG, they should actually be penalized for banging on the bench as this has probably violated the Rules of Procedure.

Secondly, there are problems related to engineering technicalities. Several days ago, there was a minor storm and just some heavy rain, but how could this lead to water seepage at the West Kowloon Station that gave rise to scenes of water cascades? I am beginning to feel concerned, not knowing what the heck is going on. Most importantly, some people pointed out that there was water seepage in the tunnel and the reply of the MTR was that water seepage in tunnels was common and normal. That is a tunnel, not the external walls of one's home, so it would be only strange if one is not alarmed. How can water seepage in tunnels be left alone? How do I know when the walls would burst open, leaving a big hole, and the whole tunnel would be flooded? There is no knowing. They really must not take this matter lightly.

I also hope that high-ranking officials like Secretary Frank CHAN would not take a flippant attitude when they are in the Legislative Council. On the incident of the derailment of a carriage, he said we should not use the words "出軌(derailment, also meaning 'having an extramarital affair' in Chinese)", that it sounded indecent and that we should say "extra-curricular activities" instead. He is the one who has indecent thoughts in his mind and the thoughts tell us about a person. When the XRL was on trial run, one carriage went off the track and this is a great cause for concern. He must not try to be playful here, thinking that he was being funny, acting and talking like a clown. We really lack confidence.

Then, the Mass Transit Railway Corporation Limited ("MTRCL") conducted another trial run and when the train reached Shek Kong, it seemed that there were some calculation mistakes in the design because in that section, the train should and could travel only at a low speed but due to the violent rocking, a wheel came loose. Sorry for that. Then, MTRCL said that the speed limit is low there, so there is no cause for concern. There is no cause for concern when the speed is low, but surely one has to be concerned about travelling at high speed? How do I know when or where wrong calculations were made? You may say that the Government has undertaken that no more problems in engineering will occur because it is very careful in respect of engineering but this is not credible at all. I feel concerned because you can say whatever you want but if things really go wrong, if accidents happened, in that event, who should we blame? "Sorry, sorry. Sorry sir, I am wrong.". It is no use saying this after accidents have happened. For this reason, I wish to give them more time to think over this matter and they should by no means say here, "These are minor problems. We will surely deal with them properly."

Once upon a time, MTRCL was the pride of Hong Kong. "MTR—A Railway For You". That was before 1997 and now, I can feel how miserable MTRCL is finding itself. Although MTRCL is basically Government-owned as 75% or 76% of its shares are controlled and owned by the Government, the staff of MTRCL have fallen from the peak of popularity to their present state of being almost like objects of public loathing. MTRCL has too many projects on its plate, including the Shatin to Central Link, South Island Line, XRL, this and that line, etc. and this is more than it can manage. Hong Kong's underground has been excavated beyond recognition. However, it has always been beyond recognition, all the more so because of XRL. In engineering, there is no point for the Government, for the sake of expediting the work, to ... obviously, at present, it is because some projects have to be expedited that MTRCL is up to its eyes in work, so steel reinforcements were cut short on the one hand—although this is not related to XRL and I am talking about the Shatin to Central Link here—on the other, an entire layer of steel reinforcements was removed because for some reason, there was a miscalculation, so the wall was thicker than it should be. XRL is a project supervised by MTRCL, so this is also unacceptable.

Of course, there are also problems at the political level. At the political level, XRL obviously serves to pull Hong Kong into Mainland China and this is how it is like. You may say, "If you do not trust the Government, do not take XRL and just leave Hong Kong." This is an irresponsible statement. We paid

the money and Hong Kong is my home, so why should I leave? Some people say, "It turns out 'one country, two systems' is founded on shifting sand, so can we repair the foundation?" This is also not possible. It is not possible to carry out repairs now. It turns out the shifting sand will suck you into it and suck the whole Hong Kong continually into a bottomless pit. We must save Hong Kong (*The buzzer sounded*) ...

DEPUTY CHAIRMAN (in Cantonese): Your speaking time is up. Ms Claudia MO, the scope of the speech delivered by you just now has exceeded that of the amendment proposed by you, which is related to deferring the commencement of the enacted ordinance. Even so, I have adopted a generous approach and exercised discretion by allowing Members to touch on other subject matters when giving their speeches. Nevertheless, I ask Members to exercise appropriate control over their speaking time.

Dr Fernando CHEUNG, please speak.

DR FERNANDO CHEUNG (in Cantonese): Deputy Chairman, I have proposed my amendments with great reluctance. Fundamentally, I oppose the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") because, despite the bald-faced lies given by the Government, it is unconstitutional and an outright contravention of the Basic Law. Many Members can do nothing but make a valiant effort of resistance. But you forcibly impose restrictions on the making of speeches and questions posed by Members, limiting the length of the debate, requiring Members who have moved a motion without notice to explain their rationales within one minute, even evicting Members from the Chamber, including those who have raised a legitimate point of order.

Now that things have come to this pass, Deputy Chairman, are you still insisting on us speaking on nothing but the technical content of the Bill? In the hope of discharging our duties as Members and upholding to the best of our ability the basic rights of Hong Kong people, we certainly will speak on that. But such an approach of barbarism, high-handedness and truth distortion can hardly be tolerated.

By proposing amendments to this utterly outrageous Bill, we seek no more than to minimize the harms inflicted by it. My amendments are simple and lead off in two directions: First, adding an expiry date for the enacted ordinance, i.e., a sunset clause commonly found in legislation. A sunset clause seeks to allow the authorities to review the relevant enactment at some stage after implementation, forcing the Government to examine the effects—both positive and negative—of the enactment before it expires. If the enacted ordinance proves to be the cause of many social problems, it should be allowed to lapse, or, debated upon again in the community and in the Legislative Council through the proposal of amendments by the Government before the expiry of the enacted ordinance.

My amendment calls for a validity period of five years, the one proposed by Mr CHU Hoi-dick, being more conservative, allows no more than three years, while another Honourable colleague suggests a longer period of validity. But honestly, five years is long enough. My other amendments, meanwhile, propose that other than for the purposes of immigration, customs and quarantine, Mainland law enforcement officers cannot enforce other Mainland laws irrelevant to those three aspects. Frankly speaking, by allowing Mainland officials to enforce Mainland laws in Hong Kong, we have already violated our principles. In proposing these amendments, we hope only to prevent this proposal, forcibly put forth by you, from stepping too far out of line, and reduce the harms wrecked by the Bill. Yet, the President still ruled the majority of these amendments proposed by Members inadmissible, including those proposed by me under this principle.

The President explained that my proposed amendments, which forbid the enforcement of Mainland laws other than those relating to customs, immigration and quarantine ("CIQ") in the Mainland Port Area ("MPA"), contravened the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("Co-operation Arrangement"). It seems that, to the President, the Co-operation Arrangement is more important than our laws and thus should in no way be breached by the Bill. What ridiculous logic! How can it be fair to say that we can contravene the Basic Law but not the Co-operation Arrangement?

Deputy Chairman, with my limited speaking time, I wish to explain why we should provide for the Bill's expiry five years after enactment, at the midnight of 30 June 2023. Prof LEUNG Kai-chi recently published an article titled

"Eight mess-ups of XRL still to be explained by the Government". I will now cite some of the questions he raised in the article. First, he asked how much losses would we incur by running the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL")? With the Bill's passage, XRL can commence operation in the third quarter this year. According to a document submitted by the Government to the Legislative Council in November 2009, no subsidy would be required for the operation of XRL from the day of commissioning. And the operational viability assessment, which had green-lighted the project, concluded that even if the patronage was lower than expected, it was unlikely that the operating revenue would drop below the operating cost and thus resulting in operating loss. The document stated clearly that XRL needed no additional subsidy and would make a profit right from day one of commissioning. In another document submitted to the Legislative Council in February 2016, the Government reiterated that XRL required no subsidy for its operations and would not run into a loss even if the patronage was lower than expected.

(THE CHAIRMAN resumed the Chair)

How does Secretary Frank CHAN put it now? He said the operation of XRL should hopefully break even on average over 50 years. The Government affirmed in 2009 and then in 2016 that XRL would incur no loss right from the day of commissioning. Yet, two years later, the Secretary conceded that it would be difficult to predict the operating performance of XRL in the first few years but it would hopefully break even in terms of average performance over 50 years.

CHAIRMAN (in Cantonese): Dr Fernando CHEUNG, what does the content of your speech have to do with your amendments?

DR FERNANDO CHEUNG (in Cantonese): Chairman, by making this particular point, I wish to explain why the Bill should remain effective for no more than five years: to avoid the possibility of a 50-year-long loss incurred by XRL. If no provision is made for the Bill's expiry after five years, who knows how much of Hong Kong people's hard-earned money will be eaten up? Let us put aside the \$100 billion construction cost of XRL and focus on achieving a break-even in operation. With the commissioning of XRL less than three

months away, Chairman, will you please ask Secretary Frank CHAN whether he dare assure all of us today in the Legislative Council that no loss will be incurred even on day one of the commissioning of XRL? Can you tell Members how much operating losses will be incurred in the first, second and third year respectively? How much losses in total? Over how many years? Since the Secretary has failed to answer as fundamental as these questions so far, in what position can he say that XRL is cost-effective and that its commissioning is a matter of urgency? If XRL really warrants such urgency, it should have been commissioned in 2015. Why is the Government in such eagerness? Is it so eager to see XRL run into losses?

The second question is: What will be the patronage of XRL? The Government has estimated that there will be over 100 000 passenger trips per day, 70% to 80% of them being short-haul with the long-haul category accounting for just 18 600—less than 3% of the current daily average of nearly 650 000 passenger trips travelling between Hong Kong and the Mainland. Chairman, in formulating the Bill, are we risking violation of the Basic Law solely for the less than 3% of the travellers journeying between Hong Kong and the Mainland?

If XRL can turn out a profit from the first day of operation, the patronage should be higher than that. Obviously, the aforementioned figures have been revised. Will the Secretary please give a clear account of the Government's latest estimates in terms of XRL patronage, the share of short-haul passengers and that of long-haul passengers. In response to our repeated requests for such information, the Secretary said only that it would be made available in due course. What did he mean by "in due course"? With the commissioning of XRL now just three months away, is it not an opportune time to make such information available? What about the operating agreement between the Government and the MTR Corporation Limited ("MTRCL")? Is the agreement still lacking in substance with details yet to be finalized? With the commissioning of XRL just three months away, why do the two sides have yet to sign an agreement, and give a detailed account to the Legislative Council? With a transportation system of such importance due to be commissioned in three months, why is the contract between the Government and MTRCL, the operator, still lacking in detail now? Is it not outrageous?

How many long-haul trains will be running between the West Kowloon Station ("WKS") and the various Mainland cities? The Government has so far failed to give a definite answer, stating 33 pairs in 2009 and now revising it down to the-yet-to-be-confirmed figure of 13 pairs. With the commissioning of XRL

just three months away, the train schedule has still not been decided. Is it not a waste of efforts? After all is said and done, what good will co-location do when the majority of XRL passengers—the short-haul ones—will disembark in Shenzhen or other Mainland cities nearby? What is the point of co-location when it proves no more trouble for these passengers, who will disembark anyway, to undergo clearance procedures both at WKS and train stations in the Mainland?

Chairman, will MRTCL pay a rent to the Government? Since, under the co-location policy, the Government will hand over the operation of XRL, which it has spent \$100 billion to build, to MTRCL, the latter should pay a rent. When the Kowloon-Canton Railway Corporation merged with MTRCL years ago, MTRCL had to pay a rent—an annual sum of \$750 million plus a variable concession payment amounting to a certain percentage of the fare revenue—to the Special Administrative Region ("SAR") Government for the East Rail Line. How much will MTRCL pay the SAR Government for XRL? This has a lot to do with the question I raised just now regarding the extent of losses to be incurred by XRL. If XRL keeps losing money, MTRCL will make up for the shortfall with revenues from other operations, with ramifications for other operations, including those within Hong Kong. Will MTR fares be raised as a result, making everyone in Hong Kong bear the losses of XRL? In that case, should we not let the Bill expire, and end such an arrangement, at the earliest opportunity? In a bid to look imposing by slapping its own face until it is swollen, the Government of Hong Kong will keep XRL running even at a loss for the sake of catering to the State's strategies and policies. Should the entire Hong Kong be dragged into this mess and pay for the loss of MTRCL? How can we possibly justify that?

Will the Mainland pay Hong Kong a rent for MPA at WKS? In implementing co-location at the Shenzhen Bay Port back then, we made an initial payment of RMB1.5 billion to the Mainland Government for the relevant development costs and then paid Shenzhen an annual rent of some RMB 7 million. Now that the Mainland is renting MPA of WKS from us, how much will we be paid? Will we be paid at all? How will the payment be made? For how many years? Despite repeated questioning by Members, the Government remains reluctant to answer all of these questions. Counting on its absolute powers that allow it to do as it pleases, the Government wants us to ask no question, act in blind faith and disregard the most basic questions, such as those pertaining to operation, safety and the law. Is this the attitude of the Government?

This is certainly what this entire Council looks like these days. There are still a number of questions that I have no time to raise. I hope the Chairman will not impose unreasonable restrictions on Members' speeches. For we all speak from the perspective of public interest and pose questions that represent public interest. Will the Government please give a proper account in respect of, among others, the legal, operational and social implications of the co-location arrangement.

DR KWOK KA-KI (in Cantonese): Chairman, this Council is detestable. The President is detestable. This approach is detestable. What do we see? An Express Rail Link ("XRL"), which is a scam through and through, is placed in Hong Kong, costing us nearly \$90 billion and damaging "one country, two systems", damaging "Hong Kong people ruling Hong Kong", and damaging "a high degree of autonomy", whereas the President, the Secretary, the pro-Government camp, the pro-establishment camp can all act shamelessly in coming together to perform a most ridiculous farce here in this Council.

Who turned the Legislative Council into a market? Who took away the power originally vested in the Legislative Council of demanding a clear explanation by the Government to all members of the public and Members? We have seen the brutal approach taken by the Chairman of the Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bills Committee"), Regina IP, and we have seen the brutal approach in the Legislative Council today. Disregarding whether or not you will ride on XRL, this is something that concerns all Hongkongers because "a high degree of autonomy", "Hong Kong people ruling Hong Kong" and "one country, two systems" originally enjoyed by us under the Basic Law will be damaged by the legislation on the co-location arrangement beyond recognition.

We are talking about Article 18 of the Basic Law, which stipulates that national laws shall not be applied in the Hong Kong Special Administrative Region except for those listed in Annex III. Such an expressly-written, simple, and important provision can be wiped out with one stroke. In the Bills Committee we continuously put questions to officials from the Department of Justice and also to Frank CHAN and Teresa CHENG, but it was just a waste of time, for they did not have the least intention to give us replies. With regard to everything that happened, what did the Mainland officials say? They said that their words carried enormous weight, which means that it is unnecessary for them

to debate it with us here, because insofar as they have given their word, whether it be Frank CHAN or Teresa CHENG or whoever, they will have the backing of "Grandpa", because their words carry enormous weight. What kind of a world is this? What has happened to "Hong Kong people ruling Hong Kong"? What has happened to "a high degree of autonomy"? What has happened to the scrutiny of Bills? Not even one minute is allowed for asking a question and a reply given to it. Honestly, throughout the process, from the very beginning when it was forced through the Legislative Council ...

CHAIRMAN (in Cantonese): Dr KWOK Ka-ki, please come back to the question of the debate.

DR KWOK KA-KI (in Cantonese): I have been speaking on the question. Andrew LEUNG, do not get in my way. I was already denied a chance to speak in the Second reading debate. I have to say this. This is a Bill out and out hurting Hongkongers, and it seeks to inflict even greater harms as if it is not damaging enough.

Honestly, what kind of a high-speed railway is this XRL? We all know that the alignment of any high-speed rail does not run through tunnels. Take a look at the high-speed railways around the world. Those that run through tunnels are considered "slow trains" now. In fact, many proposals were mooted initially without direct access to West Kowloon and without the need for co-location clearance that will ruin "one country, two systems". But the Government turned a deaf ear to all these proposals. What did the Government say when it cheated the Legislative Council and all Hong Kong people of the first funding provision? Eva CHENG said that co-location clearance could actually be ruled out, telling us to approve the funding first and leave the matter for discussion later. And you are telling us to trust these government officials now? They have done it over and over again, cheating Hong Kong people all the time. At the end of the day, they said that they can remember nothing and everything has nothing to do with them. The last-term Government is gone now. My name is Frank CHAN, and I am doing a good job in my own way. He knows only to joke around, making a few comments about derailment, behaving in a flippant, playful manner and muddling through so long as he has the backing of "Grandpa" and the "big sister".

Is this not absurd? They can arbitrarily confuse right and wrong, and then they have the guts to table this proposal to the Legislative Council for discussion. Under this distorted constitutional system which, as we all know, has been attacked and punched over and over again, whether through the "DQ" (disqualification) of Members or "DQ" of election candidates, the Legislative Council can actually do whatever it likes now. What is there to speak of solemnity? How can you tell us that our President has supreme authority? What authority is it? Who gave it to you? What supreme authority is it? Go out and ask Hong Kong people if there is supreme authority here. Indeed, the public should be informed, and they also have the right to make a decision. This co-location arrangement which costs as much as \$90 billion and sabotages "one country, two systems" should not be implemented.

The Government has not even conducted consultation, saying that it is not needed. It thinks that forcing it through the Legislative Council is the solution, tantamount to securing popular support territory-wide. Can it be so ridiculous? How dare it do such a thing! It might as well dissolve the Legislative Council or prohibit Members from entering the Chamber by closing this gate here to bar entry of Members. In that case, the Bill could be passed in a day or even in an hour, and it would have been unnecessary to do so many things and listen to our speeches here. This is detestable. I wish to tell all the people of Hong Kong that this approach is detestable.

As we all know, the Government has given notice that no matter for how long the resistance could last, the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") must be bulldozed through this Council today or tomorrow. This political decision is forced onto us from above, and Hongkongers are made to put up with it. The undertaking of "one country, two systems" for Hongkongers will be sacrificed. Some people said that there should not be any problem because the people can choose not to take XRL, for nobody would force them to ride on it. In fact, what matters is not whether one will ride on XRL or not, but it is telling us that all the provisions expressly written in the Basic Law and those provisions about the protection of "one country, two systems" and prohibiting the application of national laws in Hong Kong which we once believed to be true can be swept away.

When the approach adopted for the West Kowloon terminus is said to be alright today, two more ports can be set up tomorrow, or the area can be expanded. This is what we consider most horrifying and what Hong Kong

people consider most unacceptable. As we all know, now that the National People's Congress ("NPC") is taken as a shield. What is NPC? NPC is returned by single-candidate election, an election to return representatives of the people to NPC, so to speak, in which the Chinese people do not have the right to participate. Come on, stop that playacting. And then it is used to demonstrate supreme authority? What supreme authority is it? How many Chinese people can choose their NPC Deputies? Do Hong Kong people have this right?

CHAIRMAN (in Cantonese): Dr KWOK Ka-ki, you have spoken for more than seven minutes but you have not yet spoken on the question under deliberation in the Committee stage.

DR KWOK KA-KI (in Cantonese): I am going to speak on the question ...

CHAIRMAN (in Cantonese): If you continue not to speak on the question of the debate, I will ask you to ...

DR KWOK KA-KI (in Cantonese): You want to drive me out of the Chamber too, right?

CHAIRMAN (in Cantonese): Please come back to the question of this debate.

DR KWOK KA-KI (in Cantonese): I now speak on the question. I have said it very clearly in my amendment. Although most provisions of the Bill are arbitrary and worse still, most of the amendments proposed by us will not be passed in this Council, we must make this point very clear and as stated in my amendment, the Hong Kong Bill of Rights Ordinance ("HKBORO") has to be incorporated into the Bill. This is very clear. Why do I propose it? Because the laws of Hong Kong will not be applied in the Mainland Port Area ("MPA"). Rather, national laws will be applied there. What human rights laws are applied in our great Motherland? Do Members know that although the Mainland has signed the International Covenant on Civil and Political Rights, the Covenant has never been adopted by NPC and so, it has never been put into practice. Premier

of the last term, WEN Jiabao, was once asked when the Covenant would be implemented. He replied that it would be implemented, telling people to wait. Now that he has stepped down and his successor has taken office, not a trace of it is seen.

And now they are telling Hongkongers to believe there will be human rights laws? How will we be protected? How will Hongkongers be protected from unnecessary disturbances in MPA? We put questions to officials from the Department of Justice and of course, they were all "human tape recorders". After receiving their salaries they came here to take questions and even though they were chided by Members, greatly embarrassed, they replied that it would be alright and that they would do it. What will they do? Rubbish! All the provisions in HKBORO affording protection to Hongkongers will not be applied in MPA at the West Kowloon Station ("WKS"). So, do not expect that there is any human right to speak of in MPA. In MPA, everything that infringes on human rights and our long-established rights enjoyed by every citizen can happen in an unrestrained manner. Some people said that it would be difficult for this to happen. But we have seen it over and over again, including the incident of LEE Bo of Causeway Bay Books, and some time ago, many people were also taken to the Mainland without any difficulty. So how difficult will it be for the same to be done in MPA at WKS? Now there is even the protection of law and the "imperial laws", giving them more reasons to enforce their laws there, and what they want is to arrest people and lock them up.

Honestly, are these ridiculous scenarios avoidable? Of course, they are. However, the laws of Hong Kong will not be applied. Rather, national laws will be applied there, and it is all because of the co-location arrangement. But it transpires that everything is but a lie, for 80% of the train service will require passengers to interchange at Guangzhou East, Panyu and Shenzhen. For the so-called direct train service to Beijing, it turns out that the journey will take almost nine to ten hours with an unknown number of intermediate stops before arrival in Beijing. All is a pack of lies, and then they told you that co-location clearance is of the utmost importance, that co-location clearance must be forced into implementation, or else the economy would be affected, and that without this high-speed railway, we would almost be meeting our doom because people from the Mainland could not come here whereas Hong Kong people could not go up there, thus making it impossible for us to be aligned with the country's economic development. Over the years, we have pulled through and made it to this day, and were we to rely on high-speed trains before Hong Kong's position could be

achieved, we would have been long dead! Why do so many senior officials, corrupt officials in the Mainland keep so much money in Hong Kong? Why are property prices in Hong Kong pushed up to exorbitant levels? Why do they send all their children to Hong Kong for schooling? Why do they come to Hong Kong to give births? Is it because of that XRL? Is it really because we have this railway? It is because Hong Kong still argues with reason and upholds the rule of law, and it still combats corruption and advocates probity, and it still respects human rights. This is why they send their children here and keep their money here, pushing up the property prices to extremely high levels. Those residential flats at WKS costing \$40,000, \$50,000, \$60,000 or \$70,000 per square foot are the result of the Mainlanders grabbing land. Do they do these things because of this railway? Don't be kidding. Those corrupt officials are most afraid of being caught there and taken back to the Mainland. The last thing they want is to ride on XRL, for they know only too well that their money is ill-gotten, and they will avoid it.

So, do not play this trick on Hongkongers, telling us that only by relying on this railway that we will have a run of luck and achieve economic development. The Hong Kong-Zhuhai-Macao Bridge, Liantang Boundary Control Point, XRL, and the third runway at the airport are all developments targeting the Mainland, competing for business with our own people and snatching their "rice bowls". According to statistics published recently, the estimate for the Hong Kong-Zhuhai-Macao Bridge was again found to be wrong—Frank CHAN, you had a part to play in it—When seeking approval of this Council for supplementary provisions to meet the cost overrun incurred, the Government refused to furnish the figures. Then, when questioned in the Finance Committee of the Legislative Council, it said that the estimate made previously was wrong because the needs envisaged back then were found to be unnecessary. The passenger volume was overestimated by 10% whereas the cargo volume was overestimated by 20%. In fact, the story does not just end here. Upon its commissioning, they will be telling us that the overestimate is much higher. So they keep on overestimating things as they have nothing to lose by making a wild guess, so long as they can complete their political mission, which most important to them.

To the Mainland and the "big master in the north", it is most important to have a rail that goes to your heart straight. Members are not unaware that this carries the most important symbolic meaning to any totalitarian regime. This is like what happened in ancient times when all roads must lead to Rome, and Qin

Shi Huang (the first emperor of Qin) also wanted accessibility to Xian. This has always been the case. Now they want to have this rail to access your heart direct and only in this way will they feel at ease. What they said about people making their own choice on whether to take it or not is actually an excuse. What is more important is that the "imperial laws" will be applied there. They are the "imperial laws" of the State, "imperial laws" that are subject to no control, and these laws must be applied there. What are the laws applied in Hong Kong? It is the Bill of Rights. Come on, knock it off! NPC of our State does not have the time to adopt it, as it has so many businesses to take care of. But then they want to make us believe the rights of Hongkongers will be protected and defended in MPA. You are really kidding me!

We absolutely will not accept such ridiculous reasons for implementing the so-called national laws that are unfamiliar, unacceptable and intolerable to Hongkongers. It is because if those corrupt officials of our great Motherland believe in the national laws, how would they have moved their money to Hong Kong? Why do they not move their money one box after another to the United States, Canada, Australia and New Zealand instead of spending it on purchase of properties in Hong Kong? They certainly know that they have to find some places where human rights are upheld and democratic elections implemented. Do you think that they are idiots? Let me tell you this: XI Jinping's daughter also studies in the United States, and "YUAN 23", or YUAN Mu, is now living with his family happily in the United States, enjoying a reunion with his family. All senior officials know what it is all about. If you know what they want, then you will understand that those bosses actually say one thing but mean another. They said verbally that they want this rail but for the money that is on their minds, they must find a place to keep it.

Therefore, even though you want to make money out of the Mainland, you must understand that it is most important not to let that rail have direct access to your heart, so that Hong Kong can continue to apply its original laws and uphold the rule of law and human rights, and only in that case will they continue to bring money here. If Hong Kong should become the same as the Mainland, then we really would run into bad luck, for no one would be bringing money here.

I so submit.

MS TANYA CHAN (in Cantonese): Chairman, I had originally proposed 15 amendments. Among them, a set of amendments were proposed in respect of issues of authority. They sought to impose restrictions on the relevant CIQ (i.e. customs, immigration and quarantine) procedures mentioned by Dr Fernando CHEUNG just now. But this set of amendments were ruled by the President as inadmissible. Hence, I will speak on my four proposed amendments in this session today.

To begin with, I wonder how many Honourable colleagues have read the Schedules in the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill"). Nor do I know how many Honourable colleagues in the pro-establishment camp have placed this document on their bench, since we are discussing CSAs (i.e. Committee stage amendments) today. But perhaps they are so well versed in it that they can recite it backwards.

In the Schedules, there are a number of plans. Members may notice that the Mainland Port Area is especially highlighted in ochre, as shown in Schedule 2. In the plans there is also a blue part which reads "Hong Kong Clearance Area and Passenger Corridor". As we can see, the colour representing the Mainland Port Area ("MPA") mentioned by me just now, that means ochre, appears in various places, such as Annex 1 to Plan No. 1, and B2, B3 and B4 Levels in Schedule 2 which I have just mentioned. Members may notice that it covers different levels and platforms.

However, if we turn to Schedule 3 "Shek Kong Stabling Sidings", we would find a problem. The Secretary may recall that I have raised the following question: Do the Shek Kong stabling sidings belong to MPA? Because in the Bill, the answer is in the negative, but the colour shown in this plan is the same as the one which stands for MPA. Leaving aside various colour tones in Pantone, I only wish to point out that the blue colour is also used for the Hong Kong clearance area in the plan. In that case, why not use another colour to show the Shek Kong stabling sidings more distinctly? In particular, Chairman, I would like to put on record that we have never visited the Shek Kong depot. I had made such a request, but the Government never made any arrangement. Yet it was opened to members of the public. Members, on the contrary, had no opportunity of going there for an inspection. The Government only replied that the stabling sidings had nothing to do with MPA. The coordinates are clearly stated in the Bill, but we cannot go there for an inspection. For this reason, I proposed the relevant amendment. Of course, I had asked the Secretary if the

colour could be changed. Chairman, this would not violate the so-called Co-operation Arrangement. Moreover, a lot of things are in fact not included in the Co-operation Arrangement. For example, the size of MPA, the coordinates, etc. are not written. It only consists of 10-odd Articles. In this regard, I made an enquiry with the Secretary again, but he could not care less.

Members could not visit that place, and the colour in the plan would not be changed. Never mind. As far as Members of the pro-establishment camp are concerned, I understand that an order has been decreed. I know what they think. My proposal is very simple. I am not changing its coordinates. I only wish to change its colour to red so that the Schedules will not cause any confusion. We have got to understand that the Bill is not just for perusal by experts, including Legislative Council Members. Rather, it should be for public perusal. Hence, where appropriate, it should be made more comprehensible to the public. I do not understand why it is necessary to use the same colour tone. Even if the colour is merely similar, I still find it unsuitable. For this reason, in the end I used brick red in my amendment in order to show more clearly that what is referred to in the Schedules are two different things, and that place is not in MPA. Chairman, I do not know if it will later become part of MPA, but at least I know that after the colour is changed, we can clearly differentiate it from MPA now. I wish to start with the easy part and then go to the difficult one, so I have spoken on the Schedules first. As we all know, the Schedules concern Part 2 of the Bill. But I did not alter the content of Part 2. I just mainly change the colour.

Next, I would like to discuss clauses 7 and 8 which are supplementary provisions in Part 3. They are also the last two clauses in the Bill. Honourable colleagues may recall that at that time we made enquiries about this for quite a while, but the discussion time was short because discussion on the clauses was combined. Why do I particularly speak on these two clauses? Because these two clauses are more complicated. What is most important is the liability to which they will give rise in the future. In particular, after the Bill comes into effect and we have put MPA in place, what will be the direct impact on the public? Both civil and criminal issues and even reserved and non-reserved matters are all dealt with in clauses 7 and 8 together.

That is especially the case with clause 7(3) which is related to Schedules 4 and 5 that come after it. Members can see that my approach is in fact quite straightforward. My amendment will produce an effect. Members may notice that I have directly deleted clause 7(3). Why? I would like to explain it

briefly. Clause 7(3)(a) is about the rights and obligations which have already existed before the Bill comes into effect. It is also related to Schedule 4. What is Schedule 4 about? It is about specified orders. It mainly involves statutory organizations or statutory authority, including removal and deportation orders made under the Immigration Ordinance, as well as orders made under the Prevention and Control of Disease Ordinance. I do not know if Secretary Frank CHAN has noticed this problem, but he should have a deep impression of such statutory authority or statutory organizations. Why? Because yesterday, the Chief Executive said a Commission of Inquiry will be set up to look into the Shatin to Central Link ("SCL") which is under his supervision. This Commission of Inquiry will be set up by virtue of Cap. 86. It is a statutory authority, that means the matter referred to in clause 7(3)(b). Certainly, Schedule 4 is related to clause 7(3)(a), but clause 7(3)(b) also includes commissions of inquiry.

Chairman, suppose—it is only a supposition—as we all know, the West Kowloon Station ("WKS") was also constructed by Leighton Contractors (Asia) Limited ("Leighton"). Now water leaks like a waterfall at WKS. We may call it "Water Curtain Cave", "the House of Dancing Water" or whatsoever. It does not matter. However, suppose one day a commission of inquiry is to be set up to investigate the relevant issues. As the Chairman knows, an investigation was actually conducted in 2014, but at that time an independent expert panel rather than a commission of inquiry was set up. Members may have read the relevant report. Yet an independent expert panel does not have any statutory power, so it does not fall under clause 7(3)(b). However, if anything bad happens to the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") and a commission of inquiry is set up to conduct an investigation, but when the investigation reaches a certain point, it cannot dig any further, then what can we do? The authority for investigation may be restricted.

We should not forget that a commission of inquiry actually has enormous powers. For example, it can summon the persons concerned to give evidence. If they do not attend the inquiry, they may be arrested. It can also require them to produce documents. If they do not do so, it can search their offices. However, in the future, they may simply hide their documents in MPA, right? Because these criminal orders which are statutory orders given by statutory organizations will be invalid in MPA. Is this a correct approach?

Chairman, what I said just now is only a supposition. But as we all know, this project is also under the charge of Leighton. I really wonder how much information the Bureau has grasped now. Come to think about it. How heroically the Government acted yesterday! It immediately issued a press release, saying that it was very unsatisfied with the reply of the MTR Corporation Limited on the To Kwa Wan Station. I wonder if Secretary Frank CHAN has knowledge of this matter, but I really do not know how the issue of XRL will be handled. XRL has its own system. According to the independent expert panel mentioned by me just now, it is "check the checkers". The Government has originally commissioned an outside consultant to monitor their work. I have not yet found out whether the same thing was done for SCL, but I hope XRL will be handled more carefully and everything will be reported. Otherwise, there will be no way to clear up the mess if it ends up like SCL. I wish to tell the Secretary that should there be an opportunity of invoking Cap. 86—of course, if XRL really has any problem, the Chief Executive will not act in such a forthright manner and will definitely tackle it behind closed doors—but I wish to tell the Secretary that despite the great statutory power of a commission of inquiry, it will possibly become a "toothless tiger".

Clause 7(3)(c) is related to Schedule 5, setting out the matters related to the boundary between Hong Kong and the Mainland referred to by the Government in its explanation. Clause 7(3)(c) mainly focuses on the relevant court orders in Schedule 5, whereas clause 7(3)(d) concerns other court orders not specified in Schedule 5. It also implies—Secretary Frank CHAN also mentioned it just now—for example, habeas corpus. Yet, first of all, Secretary Frank CHAN, now that XRL will be commissioned in this way, does it imply that felons can be brought in, too? Such logic is unacceptable. Furthermore, although that place still belongs to Hong Kong, eventually the person concerned will have to leave if he does not enjoy habeas corpus, and the Government can repatriate or deport him. Yet such logic is unacceptable. Moreover, these court orders will not take effect. Neither warrants of arrest nor the other court orders will be applicable there. For this reason, I deleted the entire clause 7(3) such that the provisions will be clearer and more comprehensible, and we can deal with the relevant matters in accordance with clauses 7(1) and 7(2). I also hope that certain powers and statutory authority of the Court, including the statutory authority of commissions of inquiry, can be retained and still applicable in MPA.

Regarding clause 8, I have done two things. First, I deleted the Chinese character "而" from clause 8(1)(a) in the Chinese text. Then I deleted the entire clause 8(1)(b). In other words, only the part from paragraph (a) to the semi-colon remains in clause 8(1). Certainly, Members may still remember that

back then, the Department of Justice tried to explain that such was the difference between public law and private law. We have deleted the entire clause 8(1)(b) in this way. The main reason is that we wish to expressly prescribe that statute law, statutory authority and court orders, be it related to reserved or non-reserved matters, can continue to be enforced in MPA.

Chairman, as mentioned by various Honourable colleagues, we consider this Bill unconstitutional, but our amendments are unable to change this fact. Under such circumstances, we only wish to: firstly, accentuate how much protection and power this Bill has taken away from Hongkongers; secondly, minimize through our amendments the harm done to us by the Bill; and most importantly, pre-empt any great change in the present everyday life to which people have already got accustomed. Take clause 8 mentioned by me just now as an example. In the future, if a contract does not expressly state that Hong Kong includes MPA, then that contract will not cover MPA. How many people actually know their rights and interests? Hence, we have proposed amendments to this end.

I so submit.

(Mr CHAN Chi-chuen stood up)

CHAIRMAN (in Cantonese): Mr CHAN Chi-chuen, what is your point of order?

MR CHAN CHI-CHUEN (in Cantonese): Chairman, point of order. According to Rule 17(1A) of the Rules of Procedure ("RoP"), the quorum of a committee of the whole Council is 20 members. I do not mean to request a headcount. According to RoP 17(1), the quorum of the Legislative Council is not less than one half of all its Members. I would like to ask: Do Members who have been kicked out before the motion on the Second Reading was voted upon in the Legislative Council have the right to return to the committee of a whole Council?

CHAIRMAN (in Cantonese): Members who were ordered to withdraw earlier today may not return to the Chamber to take part in the remainder of the meeting today and tomorrow.

MR CHAN CHI-CHUEN (in Cantonese): Chairman, but previously when this Council was holding a debate on the amendments to RoP, there were remarks that the Legislative Council and the committee of the whole Council are two bodies. It just happens that the same group of Members are meeting in the same venue. The quorum of the committee of the whole Council and that of the Legislative Council are not the same. You and others said so at the time. Moreover, according to the amended RoP, after the conclusion of the committee of the whole Council, the public officer or Member in charge of the Bill shall report the Bill to the Legislative Council. It means that they are two bodies. Chairman, you are now the Chairman of the committee of the whole Council, but they were expelled by the President of the Legislative Council. The Council is in committee now. I hope you can clearly explain why they cannot return to the committee of a whole Council.

CHAIRMAN (in Cantonese): It is the established practice.

MR CHAN CHI-CHUEN (in Cantonese): RoP has not been amended to explain that they are two bodies.

CHAIRMAN (in Cantonese): Mr CHAN Chi-chuen, I have given you an explanation. If you are not satisfied with it ...

MR CHAN CHI-CHUEN (in Cantonese): It has nothing to do with whether or not I am satisfied. Chairman, when there were disputes, you said they are two bodies and some Members even said judicial reviews could be lodged on this matter against them. But under the present circumstance, if the Legislative Council and the committee of the whole Council are two bodies, theoretically they can return. Yet now you have stated that they are not two bodies. What you said is contradictory. Do you want to go back and think about it?

CHAIRMAN (in Cantonese): If you come to my office later, I will explain it to you.

Mr Dennis KWOK, please speak.

MR DENNIS KWOK (in Cantonese): Chairman, I have to express my deepest regret towards the way you handle the meeting today.

Chairman, as a matter of fact, a number of Members clearly pointed out during the adjournment motion debate and the Second Reading debate that we oppose the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") because it obviously violates Article 18, Article 19 and even Article 22 of the Basic Law. Mainland laws may not be applied in Hong Kong. Mainland law enforcement officers and courts may not handle incidents that happen in Hong Kong. Hong Kong laws and jurisdiction apply to the entirety of Hong Kong, rather than a certain part of Hong Kong or the entire Hong Kong except the Mainland Port Area ("MPA"). Adopting the co-location arrangement by force will breach a giant loophole in the Basic Law. Whether in the literal sense or under the principle of the rule of law, the co-location arrangement is unconstitutional and in complete violation of the Basic Law. This is a fact that cannot be changed even with the amendments proposed by us. However, as Members, we are still duty-bound to say what we have to say and the only way to do so is by proposing amendments which point out the loopholes in the Bill. I believe many Members will speak on the amendments later on.

Chairman, I remember that when a few Members spoke earlier on, you asked them to speak on the contents of the amendments. But I must remind you that many of the amendments actually highlight the legal and constitutional issues of the Bill per se, or even some realistic problems. Therefore, in support of a certain amendment, Members will certainly point out the loopholes of the Bill in their speeches. This is logical and not digression from the subject.

Chairman, I would like to clearly explain the reasons for my proposing the amendments which I consider important. First of all, clause 9 aims at clarifying that the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("the Co-operation Arrangement") and the Decision of the Standing Committee of the National People's Congress on approving the Co-operation Arrangement ("the Decision") do not form part and parcel of the Basic Law or any laws of Hong Kong. Why did I propose this amendment? As a representative of the legal sector, I am duty-bound to point out that, under Article 8 of the Basic Law, "The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances and subordinate legislation and customary law" form part of Hong Kong laws. Article 18 of the

Basic Law clearly provides that "The laws in force in the Hong Kong Special Administrative Region shall be this Law, the laws previously in force in Hong Kong as provided for in Article 8 of this Law".

Why did I propose the addition of clause 9 to the Bill? Because I consider it necessary to clarify that the Co-operation Arrangement and the Decision do not form part and parcel of the Basic Law or any laws of Hong Kong. During the scrutiny of the Bill by the Bills Committee, pro-democracy Members of the legal profession and I, as the representative of the legal sector, have all along questioned the constitutional basis of the Bill. We have also questioned that the Co-operation Arrangement and the Decision could not be regarded as part and parcel of Hong Kong laws or the Basic Law. A simpler legal basis is that the Basic Law of Hong Kong has the highest authority by which the Hong Kong Government, the Courts and all people must abide. All legislation in Hong Kong must be implemented on the constitutional basis of the Basic Law and should not contravene the Basic Law. This is a very clear and fundamental principle.

I will first talk about the Decision. Both the Mainland and Hong Kong Governments regard the Decision as a piece of Mainland or national law. However, I must question the constitutional base and status of the Decision under the "one country, two systems" framework since it does not form part and parcel of Hong Kong laws or the Basic Law? As I have said, the Basic Law is a constitution promulgated by the National People's Congress ("NPC"), and thus a national law that must be abided by NPC, too. NPC must, of course, abide by the national laws promulgated by itself, so must the Standing Committee of NPC ("NPCSC"). Then why can the Decision form part of the laws when it clearly contravenes the Basic Law? What kind of law is it? It is certainly not Hong Kong law or any law allowed by the Basic Law. Therefore, I have to propose an amendment to point out this key issue in relation to the constitutional system.

If decisions made by NPC on Hong Kong can be implemented direct in Hong Kong at any time on the ground that NPCSC is allowed to do so under the Basic Law and "one country, two systems", then what is the point of "one country, two systems", the common law of Hong Kong and the laws enacted by the Legislative Council? If decisions made by NPC can directly request compliance by the Government, the legislature and the Judiciary of Hong Kong, the firewall of "one country, two systems" is then pierced through. If in future NPC makes the decision that Hong Kong no longer has jurisdiction over a certain

area, do we have to comply with it? If NPC makes the decision that the Hong Kong Bill of Rights Ordinance no longer applies to a certain place in Hong Kong and the Courts no longer have jurisdiction over that place, do we have to comply with it?

The amendment proposed by Dr KWOK Ka-ki is crucial as it specifies that the Hong Kong Bill of Rights Ordinance remains in force in MPA. I will talk about it later on. But first, I will talk about my amendment.

The second reason for my proposing the amendment is that Article 18 of the Basic Law stipulates that national laws, including Mainland laws, shall not be applied in Hong Kong except for those listed in Annex III to the Basic Law. The only way to have any Mainland law applied in Hong Kong is through Annex III of the Basic Law. The Decision forms part of neither Hong Kong laws nor the Basic Law, and hence, it can neither form part of the Bill nor be taken as the legal basis of the Bill. It is worth mentioning that, although I do not agree that NPC's interpretation may bypass the procedures of the Legislative Council or the provisions of the Basic Law, NPC's official interpretations of the Basic Law pursuant to the procedures of NPCSC were at least recognized by the Courts as part of the Basic Law. On the contrary, the Decision is not an interpretation of Hong Kong laws or any provision of the Basic Law, but a decision made out of thin air in response to your so-called needs. The Decision is also not NPCSC's interpretation in exercising the powers conferred on it by the Basic Law pursuant to relevant provisions on procedure. Therefore, the nature of the Decision is completely different from that of NPC's interpretations in the past.

Hence, we must point out in the amendment that the Decision will not form part and parcel of the Basic Law to avoid confusion between the two concepts. One is interpretations by NPCSC pursuant to the provisions of the Basic Law, and the other is the so-called Decision which does not serve to explain any provision in the Basic Law. The two concepts are completely different in nature. Therefore, we must propose an amendment to point this out.

In its reply to the Bills Committee, the Government stated that NPC is the highest organ of state power and the Decision was made pursuant to the Constitution and thus, has legal effect. However, from the perspective of the Hong Kong Legislative Council, we have to read one crucial constitutional instrument only, and that is, the Basic Law. If the practice of NPC is allowed under the Basic Law, we will have no choice but to accept it. However, it is

clearly provided for in the Basic Law, which is a national law promulgated by NPC. NPC cannot violate the Basic Law simply because it has made the Decision. This is precisely why the Legislative Council should not pass the Bill as it is unconstitutional. It is also necessary to point out clearly through the amendment that the Decision does not form part of the Basic Law or any laws of Hong Kong.

There were precedents of NPC's decisions, the most well-known one being the 31 August Decision on political reform in 2014. Some people from the pro-establishment camp said that, since NPC had made a decision on political reform, the Legislative Council should pass it without any hesitation at the request of the Administration and everyone should comply with it. In that case, there was no need to put the 31 August Decision to vote at the Legislative Council, although some Members did not cast any vote. If the Legislative Council must follow the framework set by NPC and support the 31 August Decision, the 31 August Decision would not have been negated back then.

Therefore, it is evident that the Legislative Council may negative the decisions made by NPC and should not be restricted simply because the decisions were made by NPC. The Basic Law does not provide for such restriction, nor does it confer any constitutional power on NPC to make any decision or amend Hong Kong laws or enact new laws in Hong Kong without any constraint in any form or under any banner whatsoever. This is in violation of the Basic Law. If we allow the Decision to do so this time, what will happen next? If NPC decides that Hong Kong no longer has jurisdiction over a certain area or Hong Kong laws no longer apply there, would that be considered acceptable, too?

I believe many Hong Kong people will understand that it is precisely for this constitutional issue that there are huge controversies in the Legislative Council over the co-location arrangement. It is the right of Members to propose amendments in the course of scrutiny of the Bill so as to formally explain our views and put them on record. It is also why some Members sought the 15-minute speaking time to which they are entitled at the Second Reading debate just now. However, they were deprived of their right forcibly by President Andrew LEUNG who went so far as to expel them from the Chamber.

The Co-operation Arrangement does not form part and parcel of the Basic Law or any laws of Hong Kong. The point here is very simple. The Government signed with the Mainland Government a cooperation agreement

which completely deprives Hong Kong people of certain rights and the Courts of the jurisdiction under the Basic Law. Hence, we must make it clear that the Decision cannot bypass the Basic Law. As Members, we certainly understand that the Courts, when handling constitutional issues, cannot take the amendments as a guideline for the interpretation of the provisions if the amendments are negated. In some rare cases, the Courts may examine the debates in the Council but generally, the Courts will only examine the provisions in law. Therefore, we must clearly point out through the amendment that the Decision and the Co-operation Arrangement lack a legal basis in Hong Kong and do not form part of any laws of Hong Kong.

Chairman, my other amendment aims at deleting clause 8(1)(b)(ii). I may not be able to discuss it in detail in the remaining some 10 seconds. I will give reasons for the deletion of this clause in another session. However, if the Secretary has followed the discussions in the Bills Committee, he should be aware of my concern about this clause.

MR JEREMY TAM (in Cantonese): Chairman, I have proposed an amendment to add to the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") new Part 4 "Miscellaneous" and new clause 9 "This Ordinance as a one-off arrangement": "This Ordinance is a one-off arrangement for the purposes of the Hong Kong Section of the Express Rail Link and the West Kowloon Station, and will not apply to the customs clearance, immigration control and quarantine of any other railway or any railway in the future."

Why do I have to propose such an amendment? First of all, I must state it clearly that I oppose the Bill. Nonetheless, I have proposed the amendment because, even if the Bill is passed—no doubt it will be, especially after the President has driven a group of Members out of the Chamber in such a manner—does it mean that we need not consider whether the relevant arrangement only applies to the Hong Kong Section of the Express Rail Link ("XRL") and the West Kowloon Station ("WKS")? Why are we worried? Indeed, I have proposed the amendment because the community has been looking forward to an undertaking given by the Government that the co-location arrangement is a one-off arrangement. Even some Members from the pro-establishment camp made such a request, of course at the very early stage. Today they have all taken sides and would say no word on it. However, the Government has never made any positive response to it. As regards the

co-location arrangement that we consider unconstitutional, the other day Carrie LAM even said it was a great deed and it was unnecessary to guarantee that it will not be repeated. Since she made such remarks, as I have just said, we have never heard any Member from the pro-establishment camp make any request for it being made a one-off arrangement—they cannot even make such a humble request.

Does it imply that the Government, particularly the Central Government, can replicate the co-location arrangement at other places whenever it pleases? On the grounds of convenience, today the co-location arrangement can be implemented in WKS, some day in the future it can be implemented on Hong Kong Island. Secretary Frank CHAN should remember that I cited a technical report by the MTR Corporation Limited ("MTRCL") which suggested space had been set aside in the railway network to facilitate the extension of WKS of XRL to Hong Kong Island and the implementation of the co-location arrangement there. Of course, at the time when I made known such contents of the report, Secretary Frank CHAN said he would go back and look into it but the Government had no such intention at the time. However, he never answered my question on why such a study was conducted back then. Where did the power come from? Who asked MTRCL to conduct the study? He has never followed up on matters he promised to follow up on. It was not so long ago, just two or three months ago. At the time, he said he would go back and definitely look into why it was stated in the technical report. Regrettably, he has not given any answer to date. For this reason, it inevitably arouses our worries that the model of WKS will be implemented in other places in Hong Kong. Though it will not be implemented in a railway station, will it be at a pier or even the airport? It is possible? Chairman, it is. On the grounds of convenience, the oft-mentioned dispute over Article 18 of the Basic Law needs not be dealt with. In fact, a breach has been done today.

If the Bill is passed, the pro-establishment camp, the Special Administrative Region ("SAR") Government and the Central Government will definitely have all the more reasons to think that, as the co-location arrangement has been implemented in WKS, a few years later, when everything is fine and the operation smooth, such a proposal offering so much convenience should be implemented at other ports. Or, instead of it being applied to immigration control of transport, its application can even be expanded such that the Central Government may want to set up a special economic zone within SAR to trade shares which should otherwise be traded only on the Mainland. Another

example is that a land site adjacent to the Legislative Council Complex can be earmarked for the application of Mainland laws. Because of the long-term benefits it will bring to Hong Kong, the Central Government thinks it can do so. I find it very dangerous to arbitrarily change the interpretation of the Basic Law primarily out of economic considerations.

Previously, here in this Chamber, at the meeting chaired by the same Chairman who abuses power, the same public officer was talking about how to invoke Article 20 of the Basic Law. On that day, the public officer stated it was a must to invoke Article 20 to resolve the issue of the co-location arrangement. The need for the co-location arrangement had never been foreseen, thus no provision was made to this end back then. It is a given. Hence, the Basic Law affords such protection: To deal with matters that the Basic Law is unable to deal with, or matters that cannot be taken forward because of the restrictions stipulated in some provisions, the formal approach is to amend the Basic Law, isn't it? At the outset of drafting the Basic Law, indeed no one anticipated the situation today and actually the SAR Government can amend the Basic Law.

What we consider most unacceptable is that the Government has twisted the original intentions of the Basic Law, deeming the co-location arrangement completely compliant with the Basic Law. On the subject of Article 18 of the Basic Law, the Hong Kong Bar Association and other legal experts have both pointed out that the co-location arrangement fails to comply with Article 18. Even in the foreseeable future, I believe someone will definitely lodge a judicial review after the passage of the Bill. Then the Government can say that the Standing Committee of the National People's Congress ("NPCSC") will interpret the Basic Law again—but it will be a later story. Nevertheless, if the provisions are so clear, why is such interpretation required? As the Government is so confident, NPCSC needs not interpret the Basic Law. Given such unequivocal provisions, any matter should be left to the Courts of Hong Kong. Can the Government undertake that it will not request NPCSC to interpret the Basic Law? The Government will certainly not do so.

We have greater worries about what the Government said will change ten years or eight years down the line. For example, in 2009, the then Secretary Eva CHENG said in the Chamber of the Legislative Council, to this effect, "Chairman, we believe that even if the co-location arrangement has not yet been put in place at the time of commissioning, there will be other compromise proposals. As I have just said, there is no such problem on the section from

Hong Kong to Guangdong Province. As regards the through train we discussed next, as now Beijing and Shanghai—of course they are big cities—have their own ports, other cities can use other ways. Will there be a relatively compromise option? Only after we have completed the study and discussed more with Mainland departments can we find a compromise. It is at a really premature stage now. We have not done any specific analysis yet. Thank you, President."

These are verbatim remarks made by Eva CHENG. However, what has come out of such remarks today? Secretary John LEE said on 6 August 2017, "I believe it is not the first time that we said we do not have a backup plan ... the co-location arrangement is a must for XRL". Secretary Frank CHAN also pointed out that the co-location arrangement is the only and the best option and stressed it is a matter of course that the Government implements the co-location arrangement, and that dwelling on it further brings no benefit to any party.

Certainly, the Government can say that a prolonged study was conducted to arrive at such a conclusion in the end. However, Chairman, the process of the study has been completely a black box. We do not know how the study came to such an option.

Reviewing some facts, actually space has all along been set aside for the provision of a port for customs clearance in Futian Station from the planning to construction stages. On 23 August 2006, the Ministry of Railways and the Shenzhen Municipal Government signed a memorandum on establishing an XRL station in Shenzhen City. The memorandum touches on the provision of port facilities at Futian Station to facilitate passengers entering and exiting Hong Kong. In other words, at least until 2006, the proposal of setting up boundary control facilities at Futian Station remained valid. At the meeting of the Executive Council on 22 April 2008, the Council advised and the Chief Executive ordered that the Hong Kong Section of XRL be constructed. One of the justifications stated in the document is: "Meanwhile, in the planning and design of the Shibi Station, Longhua Station, Humen Station and Futian Station, the Mainland side has allowed for the need for separate boundary control facilities. Irrespective of the outcome of the deliberations on the co-location of boundary control facilities, provisions have been allowed for in the West Kowloon terminus for its implementation." At the time, it remained that, if it was impossible to implement the co-location arrangement in Hong Kong, space had been set aside in the aforementioned stations for the provision of boundary control facilities.

On 28 July 2010, at the construction stage of Futian Station, the Shenzhen Urban Transport Planning Centre even completed a layout design of a port. It means that in 2010, the provision of a port was still included in the layout and proposal of Futian Station. In May 2014, a port research group formed by the National Office of Port Administration and the Hong Kong and Macao Affairs Office of the State Council visited Futian Station and the focus was still "customs clearance facilities at Futian Station".

It shows that in the entire process until May 2014, the proposal of setting up a port in Futian Station still existed. But what happened in the interim that caused the "cession-based co-location arrangement" to be implemented in WKS, as we see today? The Government did not give any explanation. We only know the outcome. It is just like the President saying: "my decision is final and not subject to debate", as if no contemplation is needed to arrive at such a conclusion. No wonder the Government and the President are such a perfect match for holding the same mindset. I finally understand the reason, that is, no matter what decision is made by the Government, people cannot question how such a decision was made. People need not know and the Legislative Council needs not know. What Members of the Legislative Council need to know is to return to the Chamber on time to press the button to vote. The debate process in the interim is not important. If a Member disputes, the President will kick him out. If a Member stands up, the President will ask him why he stood up because he has not yet given his permission. How could he utter such words! The Rules of Procedure stipulates that a Member shall rise to a point of order. Afterwards, he also said that the Rules of Procedure does not apply to the President.

Such logic has prevailed not only in the Council, but also in the Government. We cannot rationalize it and it is the very reason for me proposing the amendment. Because the Government does not keep its words. It said something 10 years ago to coax people into accepting it. When the Government had to create a social atmosphere favourable to the co-location arrangement, it said there were many ways and it had set aside a few options. However, in the end, the Government said time was running short and only provided all information in the last few months, suggesting if it was not accepted the consequences would be grave and anyone not accepting it would be "an eternal sinner". Should it still be not accepted, the Government then accused those opposing it of engaging in "Hong Kong independence". It seems that now anyone not agreeing with the Government would be regarded as promoting

"Hong Kong independence". I have no idea what is happening now. Now, we are discussing whether or not the co-location arrangement violates the Basic Law. We uphold the Basic Law. Why does upholding the Basic Law become supporting "Hong Kong independence"? I truly have no idea why it has strayed more and more from the subject.

The Government announced the "Three-Step Process" on 25 July 2017—not long ago. Subsequently, the then Secretary for Justice Rimsky YEUNG proposed invoking Article 20 of the Basic Law, i.e. Hong Kong may enjoy other powers granted to it by the Central Authorities, to serve as the legislative basis. The Central Authorities can grant Hong Kong such power to lease part of West Kowloon for the provision of MPA, where Mainland laws will apply. Rimsky YUENG said that, for the purpose of implementing the co-location arrangement, the Central Authorities can grant SAR the power to implement it and the procedures of local legislation will be carried out at last. Article 20 of the Basic Law provides that the Hong Kong SAR may enjoy other powers granted to it by the National People's Congress and the Central People's Government.

However, what is the situation now? We can all see that someone indeed dared to say there is no need to do so much work, as anything the Government deems lawful is lawful. In fact, it is the same reasoning as that of MTRCL and Frederick MA: "When I said it is okay then it is okay". That is the social phenomenon observed by us. The Government behaves in such a way, so does the President of the Legislative Council, Andrew LEUNG.

I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): The Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") sets out clearly that the Mainland Port Area ("MPA"), which comprises the designated areas on B2, B3 and B4 levels within the West Kowloon Station ("WKS"), is regarded as an area lying outside Hong Kong but lying within the Mainland. Despite its claim that MPA has been leased to the Mainland, the Government has not specified in the Bill the enforcement of the legislation. Nor has it provided for the lease contract tenure. Such being the case, does it mean that Hong Kong will no longer exercise jurisdiction over MPA? The Government has not given us a clear account of it.

Given the aforesaid situation, a number of Honourable colleagues considered the Government's approach inappropriate and questioned why a sunset clause is not included in the Bill to clearly provide for the lease contract tenure. The Government replied that there was no need to do so for it was impossible to predict an end day. Moreover, the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"), which is a long-term cross-boundary infrastructure, is conducive to Hong Kong's long-term economic development. Hence, there is no need to provide for the lease contract tenure. This has caused extreme concern to us as the designated areas originally belonged to Hong Kong. A lease tenure was prescribed even when some parts of Hong Kong were leased to Britain given its autocratic powers. Why are similar arrangements not made? All of these have made us feel very indignant. This explains why a number of Honourable colleagues have proposed amendments to add a commencement date and an expiry date. I cannot agree more.

In fact, subsequent to the Decision of the Standing Committee of the National People's Congress ("NPCSC") to endorse the "Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement" ("Co-operation Arrangement") in December 2017, the Hong Kong Bar Association ("HKBA") issued a statement to the public, expressing shock at the Decision made by NPCSC because the Decision merely pointed out that NPCSC approved the Co-operation Arrangement and endorsed that it was in compliance with the Constitution of the People's Republic of China ("the Constitution") and the Basic Law without suggesting any legal basis and rationale. Meanwhile, NPCSC said that the Special Administrative Region ("SAR") Government should enact legislation to assure the implementation of the Co-operation Arrangement. Such a move is not only unprecedented, but it has also seriously undermined the spirit of "one country, two systems" and a "high degree of autonomy".

In response to the aforesaid queries, LI Fei, the Deputy Secretary General of NPCSC, frankly pointed out, "For the implementation of the Basic Law and the handling of major legal issues, the Decision made by NPCSC shall not be queried as it enjoys a constitutional status and the highest legal effect." The comments made by the Government echo LI Fei's remarks, saying the Decision made by NPCSC should be regarded as law. However, does NPCSC have the power to interpret and enact laws in Hong Kong? The Government has given no

clear response to this question. According to HKBA, however, NPCSC cannot exercise this power without any basis. Any decision made in respect of the SAR Government affairs must be compliant with the requirements of the Constitution and the provisions of the Basic Law. As we mentioned just now, the NPCSC Decision is obviously in conflict with a number of provisions of the Basic Law. Moreover, no clear legal basis has been set forth in respect of these conflicts. Article 11 of the Basic Law clearly stipulates that "No law enacted by the legislature of the Hong Kong Special Administrative Region shall contravene this Law." Hence, the rationale is actually very simple. The NPCSC Decision should not be regarded as the basis for reference in the enactment of law by the Legislative Council. What is more, the Legislative Council must not irresponsibly pass a law which is very likely to contravene the Basic Law.

Article 18 of the Basic Law clearly prescribes that national laws shall not be applied in the Hong Kong Special Administrative Region except for those listed in Annex III to this Law. Laws listed in Annex III to this Law shall be confined to those relating to defence and foreign affairs as well as other matters outside the limits of the autonomy of the Region as specified by this Law. Even the Government concedes that the legislative intent of Article 18 is to restrict the application of national laws to all persons in the SAR to prevent the "high degree of autonomy" of the Hong Kong SAR and its legal system from being undermined. The Government, however, asserts that the Co-location Arrangement will not contravene the Basic Law because national laws shall be applicable only to MPA and passengers who choose to enter MPA. Chairman, this explanation is completely devoid of rationality. The literal meaning and legislative intent of Article 18 clearly indicates that it seeks to restrict national laws and is applicable to all persons in the SAR. The Government's insistence that XRL passengers will be free to choose to enter MPA gives us an impression that it is trying to justify itself and argue in ambiguous terms and, most importantly, running contrary to the spirit of the rule of law. In other words, any intention to enforce national laws not listed in Annex III in accordance with the statutory procedure, regardless of whether such laws are applicable to the Hong Kong SAR as a whole or part of it, will definitely contravene Article 18.

Chairman, I would like to say a few words about immunity from jurisdiction in particular. The Bill provides that, except for reserved matters, Hong Kong courts' jurisdiction over all matters within MPA shall be excluded. Instead, the Courts in the Mainland shall exercise jurisdiction over all these matters. The reason given by the Government is that legislation was already

enacted in Hong Kong, such as the International Organizations and Diplomatic Privileges Ordinance, to restrict the jurisdiction of Hong Kong courts a long time ago. Chairman, let us for the time being put aside the fact that the Courts of the two places are different by nature and so, it is impossible to make a direct comparison. Obviously, the Government is sticking to its lame arguments. If so, does it mean that the jurisdiction of Hong Kong courts over any part of the SAR can be excluded simply by way of local legislation? Once this precedent is set, fundamental and substantial damage will be done to the credibility of the Basic Law.

There is yet another closely related question. Will those international treaties which are implemented in Hong Kong but not in the Mainland continue to be applicable to MPA? For instance, Hong Kong has already signed the International Covenant on Civil and Political Rights ("ICCPR") to ensure that Hong Kong people enjoy the rights to peaceful assembly and fair trial. If some people assemble within MPA at the West Kowloon Station, can Mainland law enforcement officers arrest them and take them back to the Court in the Mainland to stand trial? How can these issues be addressed?

According to the Government, "application of international treaties in MPA shall take into account the facts of the individual case and other relevant factors". Chairman, such words and explanations are meaningless. What does "other relevant factors" mean? The Government stated that "as the sovereign state of HKSAR, the People's Republic of China would ensure that the HKSAR Government discharges its international duties and obligations". So far, the Government has failed to explain clearly how members of the public can enjoy the same legal protection in the Courts of the Mainland in accordance with the Basic Law and the Hong Kong Bill of Rights Ordinance ("BORO"), as well as the basic human rights prescribed in various international treaties. If there is no way to explain all this clearly, what is the rationale behind the transfer of Hong Kong's jurisdiction to the Courts in the Mainland? What sort of protection will Hong Kong people receive? Is excluding Hong Kong courts' jurisdiction tantamount to depriving all XRL passengers within Hong Kong territory of the basic rights conferred on them by international treaties and the Basic Law?

In the face of these queries, the Government has so far still failed to offer clear and proper explanations. It has continued to stick to its lame arguments and emphasize through the Solicitor General that the Central Authorities are

obliged to ensure that Hong Kong will not contravene international laws, and told us not to worry. Given the Government's assurance, does it mean that there is really no cause for worry? The Government's approach is really unconvincing. It is even more ridiculous in suggesting that due to the limited size of MPA, the possibility of encountering major problems in the application of international treaties is very low. If problems really arise, the SAR Government will then discuss with the Central Authorities and address the problems in an appropriate manner. Chairman, do you not agree with me that this suggestion is most laughable? If a small area will not lead to a serious problem, may I ask if we can regard a thief as not breaking the law if he has merely stolen a small amount of money? Is it not very shocking should we make further deductions according to this rationale and logic? In my opinion, the crux of the matter does not lie in the size of MPA, but whether or not our human rights are protected and whether the Government's approach is in breach of the basic spirit of ICCPR in protecting human rights. This is indeed the most important point.

The Government has also indicated that on the one hand, passengers may freely choose to travel by XRL and, on the other, excluding Hong Kong courts' jurisdiction may bring benefit to Hong Kong society. Is it not very ridiculous for the Government to say that a balance should be struck between social economic benefit and human rights? Despite our constant fight for it, basic human rights can be exploited for the sake of economic benefit. I think even backward countries will not say something like that. The SAR Government has really gone too far in making such shameless remarks. In fact, it is absolutely absurd for the Government to surrender human rights in return for social benefit. How can the Government bear to see some people forgo or have their human rights exploited for the sake of travelling by XRL? How can the Government allow the public to forgo human rights protection? Furthermore, the United Nations have pointed out clearly in a document that human rights are a universal value. ICCPR, once implemented, cannot be exploited or abolished. For these reasons, BORO must be applicable to all parts of Hong Kong, including MPA, or else the rights conferred on us by ICCPR will be violated.

This is why the amendment proposed by Dr KWOK Ka-ki specifies that BORO remains in force in MPA, meaning it shall have legal effect on the Mainland law enforcement officers. Should a Mainland law enforcement officer unreasonably detain a passenger at MPA or disallow him from applying to a local Court for a writ of habeas corpus, he may file a lawsuit under section 6 of BORO,

and this I fully support. Doing so can ensure protection of human rights and avoid possible contravention of ICCPR by the Co-location Arrangement at the level of international laws. Otherwise, once the United Nations pursues the matter, the Central Authorities will have to report to the United Nations on behalf of the SAR Government. In doing so, not only will the Central Government make a spectacle of itself, but the process is time-consuming. In any case, I hope Members will support the amendment proposed by Dr KWOK Ka-ki.

Other than the aforesaid problems, the Co-location Arrangement will give rise to many other problems as well. However, the Government has all along failed to give us explanations and accounts. For instance, the Government has all along failed to give us an account despite being questioned by Honourable colleagues about the lease agreement information and the construction plan of the XRL stations. Furthermore, XRL will be jointly operated by the MTR Corporation Limited and the Mainland, meaning that an operation agreement should be signed between the two parties prior to the commissioning of XRL. But regrettably, the agreement has yet to be finalized. Moreover, not a single word has been mentioned and we are kept in the dark about the details.

Given the Government's failure to explain all of these misgivings, coupled with the fact that the existing arrangement is considered to be in breach of the Basic Law and the public have not been widely consulted on the Bill, we will not support the Bill. Nor will we allow important values such as the rule of law, human rights and the Constitution to be undermined for the sake of "convenience, speed, economic benefit", not to mention that it is absolutely not worthwhile to do so. I therefore hope that Honourable colleagues can think twice and oppose the Bill.

Chairman, I so submit.

(Mr Gary FAN stood up)

CHAIRMAN (in Cantonese): Mr Gary FAN, what is your point?

MR GARY FAN (in Cantonese): Chairman, I request a headcount.

CHAIRMAN (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(While the summoning bell was ringing, THE CHAIRMAN'S DEPUTY, MS STARRY LEE, took the Chair)

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

DEPUTY CHAIRMAN (in Cantonese): A quorum is present in the Chamber. Committee will now continue.

MR ALVIN YEUNG (in Cantonese): Deputy Chairman, the President made his ruling on 4 June this year, allowing some Members to propose amendments on the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill"), but at the same time, he removed some of the amendments. The amendments ruled as admissible are those we see in the Council document today. This time the pro-establishment camp did not even propose a single amendment, whereas the pro-democracy camp proposed 75 amendments in total. Only 24 of them were ruled admissible while 51 were ruled inadmissible. It is evident that the admissible ones only account for a small number, while the ones removed are certainly the majority. Apart from some ruled as inadmissible because of technical errors such as using the wrong Chinese character or contravening the Rules of Procedure ("RoP"), the rest of the amendments actually have much substance and are well grounded. It is incomprehensible why the President removed them at one stroke. Since the Second Reading debate, various Members have discussed the relevant question here, but the President would only give the same reply, that his power is not subject to debate. This precisely runs counter to the spirit of free deliberation in the legislature. Here I wish to leave my protest on record so that the future generations will see what a dictator the Legislative Council President of the current term is.

In short, we have observed the abuse of power by the President. Yet the President certainly did not make the relevant ruling alone. Rather, he had sought the views of the Legal Adviser of the Legislative Council and the

Department of Justice. In the end, however, the President swiftly and unhesitatingly rejected Members' amendments without debate or voting. These amendments did not even qualify to appear on the Agenda. We do not even have the chance to discuss them. Is this not against the principle of democratic deliberation? Let us leave aside those technical issues of using the wrong character or contravening RoP. Such amendments are indeed inadmissible. However, can the President hold such ultimate decision-making power over the other amendments? We have doubts about it because if we uphold the principle of democracy, the President should deal with all amendments with the most open attitude and allow Members to conduct their own consideration and voting. The Council will form its own judgment. The relevant decision should not be made by the President alone.

Here we must recap the President's logic in making his ruling. On 4 June, the President openly said to the reporters to this effect (I quote): "The subject matter of the Bill on the co-location arrangement is to implement the Co-operation Arrangement for co-location in the Hong Kong Special Administrative Region ("HKSAR") pursuant to the decision of the Standing Committee of the National People's Congress ("NPCSC"). Hence, any amendment which is inconsistent with or deviates from the Co-operation Arrangement would be outside the scope of the Bill." (End of quote) This is the original wording of the President. Some people may not find any problem upon hearing it. Deviation from the Co-operation Arrangement is tantamount to deviation from the subject matter, so such an amendment is inadmissible. However, I must point out, Deputy Chairman, if the purpose of the whole Bill is to implement the Co-operation Arrangement, then this document endorsed by NPCSC, in which Hongkongers have no say at all, has basically nothing to do with the Members present because this is the final decision of the Central Government. All we need to do is to simply press the button at the vote. Is this the President's logic?

Deputy Chairman, we must ask: Do we have to fully adhere to the whole Co-operation Arrangement? Or should we ask another question at a deeper level: Why do we have to fully adhere to the Co-operation Arrangement?

Among the amendments in this exercise, those proposed by the several Members of the pro-democracy camp have revised the scope of the Mainland laws to be implemented in the Mainland Port Area to cover only immigration, customs and quarantine, instead of applying the whole Mainland practice to Hong

Kong land, introducing such laws as "endangering national security" to the West Kowloon Station. According to the President's logic, these amendments were removed because of incompatibility with the so-called "subject matter" of the Co-operation Arrangement. Deputy Chairman, now our question is: Why can the Co-operation Arrangement completely override Members' consideration of law and people's livelihood? HKSAR implements "one country, two systems". More important still, we possess legislative power independent of the Mainland. Being Members, do we not have the duty to propose a Bill which suits Hong Kong most, rather than doing whatever is said in the Co-operation Arrangement, disregarding all other considerations?

Deputy Chairman, now let us carefully consider various amendments together. The Civic Party and I will support all the amendments proposed by the pro-democracy camp. However, regarding the amendments removed by the President, we need to consider whether there is a great disparity between their logic and that of the present proposed amendments, and whether they are incompatible. Many Members have proposed amendments to clause 2 of the Bill to add or delete some of the provisions in "Interpretation". For example, Mr CHAN Chi-chuen's amendment to add the definition of "Mainland Authorities Stationed at the Mainland Port Area" was approved on the grounds that the wording of his amendment was consistent with that of the Co-operation Arrangement, but the amendment proposed by Ms Tanya CHAN of our Party to add the definitions of "Mainland authorities" and "Mainland officer" was eventually removed. According to the President's standard, amendments proposed by Members must completely follow every single word in the Co-operation Arrangement. Obviously, the President's standard was: amendments written with words recognized by the Co-operation Arrangement could be ruled admissible in the end, while those with words not mentioned in the Co-operation Arrangement were totally unacceptable.

Deputy Chairman, there is another example. A few Members have proposed prescribing an expiry date for the Bill, that means a sunset clause. For example, Mr CHU Hoi-dick proposed 2021, Dr Fernando CHEUNG, 2023, and Mr CHAN Chi-chuen, 2047. In these examples, the President held that these amendments would not change the subject matter of the Bill and thus granted them approval. We certainly welcome this and will vote for these Members' relevant amendments. However, Ms Tanya CHAN's amendment similarly draws up an expiry date or a sunset clause. It similarly prescribes that it would expire in 2047. But since it adds provisions about HKSAR having the power to

grant a licence to the Mainland, eventually it was not approved by the President. In short, anything which does not comply with the arrangements in the Co-operation Arrangement is inadmissible. Actually, we consider the amendment proposed by Ms Tanya CHAN the most reasonable. It is also the amendment which we wish to support the most, not only because it is proposed by the Civic Party. It is also because she has proposed a mechanism establishing Hong Kong's power to grant and revoke a licence and emphasizing the principle of "one country, two systems".

Deputy Chairman, her amendment was removed. I find it most regrettable. After all, the Co-operation Arrangement is not the Basic Law. Neither is it a document supreme over everything else. We need to consider that the Co-operation Arrangement was not devised under any framework or approach approved in the Basic Law. It is neither an amendment to nor interpretation of the Basic Law by NPC. Nor was it introduced into Hong Kong through Annex III. In fact, how did this Co-operation Arrangement come about? What is its actual status within the framework of the Basic Law? Eventually, if the Court has to consider or examine the Co-operation Arrangement in future, what position does the Co-operation Arrangement hold? It is neither an interpretation of nor amendment to the Basic Law. It does not belong to Annex III either. Nor is it part of the provisions in the Basic Law. It is certainly not part of the Constitution of China either. So what the heck is it? Deputy Chairman, on this point, we do not see any answer at all. Yet regrettably, this Co-operation Arrangement has a transcendent status in the mind of the incumbent President. This is simply absurd.

Besides, Dr Fernando CHEUNG proposed deleting the definition of the Co-operation Arrangement from clause 2 direct. Of course the President would not approve it because such an amendment was the bluntest and most unreserved challenge to the President's logic. The President did not approve this amendment on the grounds that it was inconsistent with the object of the Bill, which is to implement the Co-operation Arrangement. According to the President's ruling, this object is clearly stated in the long title of the Bill. However, I wish to point out that if we take a closer look at the long title of the Bill, we will find that basically, there is no mention of the Co-operation Arrangement in the long title. In my view, now the President is only interpreting it arbitrarily. He is even second-guessing the object of the Bill without being subject to effective checks and balances. In this respect, basically, the President lacks self-discipline, which is disappointing.

Moreover, I would like to talk briefly about two amendments which I originally wished to submit. I proposed a new clause 5A to stipulate that except in the Mainland Port Area, the enacted Ordinance does not apply to any other area within Hong Kong. The President ruled that this amendment is not consistent with the Co-operation Arrangement. In fact, I do not know why it is not. Can the Co-operation Arrangement possibly mean that the co-location arrangement will apply to other places in Hong Kong? I do not mean to raise alarmist talk, but I suspect the President's logic is totally wrong and confusing. When an amendment was acceptable in his personal opinion, he would say it was consistent with the Co-operation Arrangement. Those which he disliked or considered unreasonable were all removed on the grounds of inconsistency with the Co-operation Arrangement ...

(Mr Paul TSE stood up)

DEPUTY CHAIRMAN (in Cantonese): Mr Alvin YEUNG, please hold on. Mr Paul TSE, what is your point of order?

MR PAUL TSE (in Cantonese): I have been patiently listening to Mr Alvin YEUNG's speech for quite a long time. It seems that in a great part of his speech, he was debating the President's decision on the amendments. This seems to violate RoP according to our understanding. I hope Mr Alvin YEUNG—perhaps he is well aware of this point in his heart. I believe he may have his own difficulty—but I hope he understands our limitations.

DEPUTY CHAIRMAN (in Cantonese): Mr Paul TSE, you have raised your point of order. Please sit down.

Mr Alvin YEUNG, you have spoken for more than nine minutes. I noted that when you spoke on the contents of the amendments, you mentioned the President's justifications for ruling certain amendments as admissible or inadmissible and made your comments. You should focus your speech on the admissible amendments. Now will you please continue.

MR ALVIN YEUNG (in Cantonese): Deputy Chairman, Mr Paul TSE is indeed one of the most patient Members in the Legislative Council. He would always point out which part of RoP he thought a Member had contravened when the Member concerned was speaking. On this point, we should really give him a credit. For this reason, may I ask him to continue to listen to the rest of my speech patiently. Then he will hear what my objective or main theme is.

Deputy Chairman, what I wish to bring out in my whole speech is not ...

DEPUTY CHAIRMAN (in Cantonese): Mr Alvin YEUNG, let me remind you that just now I exercised my discretion to let you mention the President's ruling, but you have already spoken for more than nine minutes. Will you please focus your speech on the admissible amendments in accordance with the rules in RoP.

MR ALVIN YEUNG (in Cantonese): I thank the Deputy Chairman for her reminder. Deputy Chairman, what I wish to bring out is the actual purpose behind the amendments which we are dealing with now, or the Bill which we are handling today in this Legislative Council. I wish to highlight, or should I say, now we are using other examples to illustrate the difficulties encountered by us in the course of scrutiny of the Bill, or the problems we now have to face. We certainly need to cite examples, but it is impossible for me to cite any example out of thin air. The most effective way, or a way which can make our discussion more effective is, of course, to bring up something which is already a piece of fact for Members to mull over.

Certainly, Deputy Chairman, I do not intend to challenge the final ruling of the Legislative Council President because his ruling is not subject to debate. I will not attempt to criticize the President's final ruling either, because in my view, criticism is of no help, not to mention that the writing is already on the wall. Deputy Chairman, I only wish to point out that ultimately, this series of amendments which we are dealing with now merely seek to build into the Bill a mechanism which can better protect "one country, two systems". Of course, these amendments may not be perfect. They may not even match the ultimate ideal principle of "one country, two systems" on which the pro-democracy camp has all along insisted. Nevertheless, these amendments which we consider feasible were proposed after thorough consideration by us.

Yet now we are worried what will happen if such a mechanism cannot be added to the Bill. For example, Dr KWOK Ka-ki is most worried what will finally remain of "one country, two systems" if even international covenants cannot be implemented in the Mainland Port Area. In fact, what will we leave behind to the next generation in the end? Deputy Chairman, will the Legislative Council President—certainly not you, but you are now exercising the same power—end up removing the precious element we originally aspire to preserve in "one country, two systems"? This is the most crucial point I wished to bring out in the past nine minutes before Mr Paul TSE raised his point of order.

Deputy Chairman, certainly, our amendments may not be passed in the end, and the Bill on the co-location arrangement will definitely be passed by a majority vote. Despite this, apart from our worry that "one country, two systems" cannot continue to stand in Hong Kong till the end, we do not wish to see that certain rulings made by the President over the past period will undermine our efforts in protecting "one country, two systems". Of course, as I said just now, the President's decision is not subject to debate, but do we have no room for thinking at all? For example, when 70% of Members' amendments have been removed, is there nothing worthy of preserving, thinking or pondering at all? This is precisely our concern.

Deputy Chairman, now what we must do in the Legislative Council is to carry out the examination fully under separation of powers. This examination includes allowing us room for proposing different amendments, and such amendments are supposed to let us think about whether they are completely consistent with the Co-operation Arrangement, or what legal status the Co-operation Arrangement has. We should be allowed to do these things. But regrettably, in the name of the Co-operation Arrangement, more and more of our room has been curtailed. With our hands tied, we are not allowed to conduct effective open debates and discussions. On such premises, Deputy Chairman, how can we not feel gravely concerned and worried?

I hope that in the following time, Legislative Council Members can continue to listen patiently to other Members' views on the other amendments, and then really ponder whether they are totally unacceptable, especially the sunset clause proposed by several Members as mentioned by me just now. These are beneficial to Hong Kong and the Bill. I hope the Deputy Chairman or other Members can listen to them carefully.

I so submit.

MR KENNETH LEUNG (in Cantonese): Deputy Chairman, first of all, I have to ask this question: President Andrew LEUNG, being the President or the Speaker of a parliamentary assembly, concurrently holds the office of a non-executive director of a listed company, and when the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") is under debate, do the companies of his group have any direct or indirect pecuniary interests? Although we have never asked him this before, due diligence is still required of him. Deputy Chairman, has he done it? If not, can he do it now by giving an account to Members in this Council? The listed company of which he is a non-executive director belongs to a group that probably owns dozens of companies. Does any of these companies have any direct or indirect commercial contracts in relation to the West Kowloon terminus? He has not answered this question, and I have not found any advanced, civilized place elsewhere in the world where the President of the parliamentary assembly can, after receiving double pay, concurrently hold the office of a non-executive director of one or several listed companies. Deputy Chairman, you are not like this, are you?

DEPUTY CHAIRMAN (in Cantonese): Mr Kenneth LEUNG, if you have opinions about the declaration of President Andrew LEUNG, you can raise them on other occasions.

MR KENNETH LEUNG (in Cantonese): This is actually a point of order concerning his declaration of interests ...

DEPUTY CHAIRMAN (in Cantonese): Mr LEUNG, you should focus on the relevant amendments in your discussion.

MR KENNETH LEUNG (in Cantonese): ... insofar as the question is concerned, does he have any direct or indirect pecuniary interests? If he has, he cannot preside over the meeting. The kind of declaration that we generally refer to is declaration at the primary level, whereas the secondary level of declaration has to do with the question under discussion. Has he reviewed whether he has any direct or indirect pecuniary interests? This is what we all should understand. Therefore, I hope that you, Deputy Chairman, can ask the President

to give an account of whether he has conducted due diligence in relation to the Bill. The question under discussion is the West Kowloon terminus. Do the companies under his group have entered into commercial contracts in relation to any part of the West Kowloon terminus?

This is all I wish to say on this point. I now come back to Dr KWOK Ka-ki's amendment ...

DEPUTY CHAIRMAN (in Cantonese): Mr LEUNG, I have to interrupt you. I would like you to understand that the Committee is debating the amendments to the Bill. Every Member, including the President, is required to make a declaration according to the stipulations in the Rules of Procedure ("RoP") and review whether his or her declaration in relation to an individual question is compliant with RoP.

Please come back to the question of this debate.

MR KENNETH LEUNG (in Cantonese): Deputy Chairman, I have come back to the question. I only meant to remind the President of this point, and you, Deputy Chairman, can voice your opinions. I was using my own speaking time and I think it is fair for me to raise this point in this manner because I would like everyone to know that there may be potential conflicts of interests on the part of the President and he should make a clarification.

There are 24 amendments now. I certainly wish to have the time to talk about them one by one. But why do I have to discuss this amendment? With regard to the Bill, the point of the utmost concern to me is that it is not consistent with the Basic Law. Of course, many Honourable colleagues, especially colleagues from the pro-establishment camp, said that the Standing Committee of the National People's Congress ("NPCSC") had already made a Decision stating that the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("Co-operation Arrangement") is consistent with the Basic Law and the Constitution. Certainly, NPCSC is the highest organ of the State. But apart from considering the legal or constitutional function of this organ, we also have to look at the rationale, including the views

of many legal experts on the constitutional status of this Decision made by NPCSC, for the arguments in it are not at all convincing. So, the Bill has actually better alternatives to give assurances to the public but the Government has not done so. Whether it be a "Three-step Process", "five-step process" or "10-step process" that the Government has proposed, it would still be useless disregarding how many steps would be taken, because where exactly does it come from? Why is there a "Three-step Process"?

Hong Kong has the Legislative Council, and NPCSC also has the standing practice of making interpretations of the Basic Law but these established mechanisms or mechanisms specified in the Basic Law have not been adopted and rather, a "Three-step Process" has been proposed. This, I think, is really incomprehensible. Although I do not support the Bill, I have to express views on each amendment because these amendments primarily seek to reduce the damages done by the Bill to the Basic Law of Hong Kong and reduce the uncertainties in Hong Kong.

The most important amendment is the one proposed by Dr KWOK Ka-ki of including in the Mainland Port Area ("MPA") the application of the Hong Kong Bill of Rights Ordinance ("BORO") (Cap. 383) by adding new subclause (3) to clause 6 to provide that "to avoid doubt, the Hong Kong Bill of Rights Ordinance (Cap. 383) remains in force in the Mainland Port Area". I support this amendment for the reason that on 27 December 2017, NPCSC unanimously endorsed the draft Decision on approving the Co-operation Arrangement for implementing co-location arrangement at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. It is clearly stated in the Decision that "The establishment of the Mainland Port Area at the West Kowloon Station does not alter the boundary of the administrative division of the Hong Kong Special Administrative Region, does not affect the high degree of autonomy enjoyed by the Hong Kong Special Administrative Region in accordance with law, and does not undermine the rights and freedoms enjoyed by the residents of the Hong Kong Special Administrative Region in accordance with law."

Assuming these words would be honoured, and if the amendment were passed, BORO would be legally binding on Mainland law enforcement officers, and this seems to be contradictory. Deputy Chairman, let me explain why this entirely makes sense. Article 22 of the Basic Law stipulates that if there is a need for departments of the Central Government to set up offices in the Hong

Kong Special Administrative Region ("SAR"), they must obtain the consent of the SAR Government. In explaining why the Bill does not contravene Article 22(3) of the Basic Law, the Government pointed out that the Bill, when passed, will become a law of Hong Kong. If such being the case, when Mainland officers who abide by this law do not have to comply with the laws of Hong Kong, it is because a law of Hong Kong provides that their compliance with the laws of Hong Kong is not required. Their non-compliance with the laws of Hong Kong is actually the result of their compliance with a law of Hong Kong, and all Mainland officers are in compliance with a law of Hong Kong

Under Article XIII of Annex I to the Sino-British Joint Declaration, the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong shall remain in force. Article 39 of the Basic Law provides that "the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region. The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article."

Obviously, the amendment proposed by Dr KWOK Ka-ki is precisely manifesting Articles 39 and 22 of the Basic Law and even the Decision made by NPCSC on 27 December 2017 which stated that our high degree of autonomy as well as the rights and freedoms enjoyed by us in accordance with law will not be undermined, and Mainland law enforcement officers as well as all relevant personnel shall fulfil their obligations under the international human rights covenants. This can also afford clear and a high degree of protection to Hong Kong citizens and even other visitors in MPA.

BORO actually stipulates a number of safeguards, and this can address the issue of law enforcement by the Mainland. Deputy Chairman, I can cite a few examples. For instance, under Article 5(1) of the Hong Kong Bill of Rights, "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." Deputy Chairman, you have also commented on incidents of Hong Kong reporters being assaulted by unknown persons in the Mainland before. If

we entered MPA, is it possible for us to run into situations such as we being harassed by people who do not disclose their identities or show their identity proof? If BORO remains in force in MPA in Hong Kong, all public officers shall abide by BORO and this will actually provide very good protection for all visitors using MPA, whether they are people from the Mainland or Hong Kong citizens or even international visitors. This can obviously put our minds at ease in using this facility and may, in turn, cause our tourism industry to thrive further. This is an economic consideration.

Let us turn back to the very useful protection provided for us in other aspects. For example, Article 5(4) of the Hong Kong Bill of Rights reads, "Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful." Our personal safety and personal freedom are under protection, and in case of unlawful detention, the Court has the power to determine the legality of such detention. Article 8(4) provides that "No one who has the right of abode in Hong Kong shall be arbitrarily deprived of the right to enter Hong Kong." Article 16(1) provides that "Everyone shall have the right to hold opinions without interference." It means that a Hong Kong citizen in MPA who inadvertently made remarks that touched a raw nerve of the Central People's Government will be protected. In fact, when we are in MPA and since it is so close to Hong Kong, people will feel as if they are still in Hong Kong and so, they may continue to express their views freely, including criticisms of the Government. Regarding these inadvertent mistakes, if there would be no basic protection for human rights, how could Hongkongers feel at ease when travelling on XRL to the Mainland for vacation?

Besides, Article 17 of the Hong Kong Bill of Rights is also very important. It stipulates that "The right of peaceful assembly shall be recognized." In fact, a number of pan-democratic Members have put questions to the Government in this regard. An example is when labour disputes occurred. As we all know, under this Bill proposed by the Government, some of the provisions in legislation particularly relating to employment relationship are not compatible with the Mainland laws. Insofar as employment relationship is concerned, if service providers from Hong Kong, such as cleaners, renovation workers or repair workers, have an argument or even minor friction with their employers in MPA over issues relating to labour rights and interests, the workers may say in MPA that they will not continue to work or they may work to rule or go on a strike. If

that happens, will the criminal laws of the Mainland be invoked immediately to put them under arrest, or will they be handled in accordance with the labour legislation of Hong Kong which is given exemption, so to speak? This is not clearly spelt out. But if this part of the Hong Kong Bill of Rights can be applied in MPA, we can ensure protection for the right of peaceful assembly. That Article goes on to stipulate that "No restrictions may be placed ... other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others." It means that the right of assembly will not be protected if it affects public order and public safety. This is also very reasonable as it means that assemblies should be held peacefully. If workers hold an assembly in MPA on the ground of labour rights and interests, they will be protected as long as the assembly is held peacefully. Therefore, I think this amendment proposed by Dr KWOK Ka-ki is absolutely worthy of support.

Moreover, if BORO is applied in MPA, when Mainland officers intend to arrest passengers, including Hong Kong citizens, for some reasons, they will be required to make an application to the Court, whereas the arrestee can also apply for habeas corpus from the Court. Under normal circumstances, we do not see that this arrangement will have to be made frequently but under extraordinary circumstances, there must definitely be this extraordinary protection.

This is actually the most important amendment among the 24 amendments, and the President was wise in permitting this amendment because it is in line with the scope, principles and direction of the agreement made between the two places on the relevant arrangement. Therefore, I hope Members will support this amendment as well as the other 23 amendments.

I so submit.

MR LAU KWOK-FAN (in Cantonese): Deputy Chairman, this time, Honourable colleagues of the opposition camp originally proposed 75 amendments and clearly, they were setting the scene for a filibuster. Had the President not approved just 24 of them and drawn a line by earmarking a total of 36 hours for the debate in the course of two weeks, I believe the filibuster would have gone on interminably.

In fact, the discussion on the implementation of the co-location arrangement for the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("the XRL") is long-standing and as early as 2010, when the Legislative Council considered the funding for the XRL, there were already some in-depth discussions. The Bills Committee also held 17 meetings and spent a total of 45 hours on debates, so the general public have already gained some understanding of the co-location arrangement. In fact, the co-location arrangement has won the support of the majority public and be it the public opinion surveys conducted by the Democratic Alliance for the Betterment and Progress of Hong Kong or by various major organizations, they all indicate that the majority of the public support the co-location arrangement.

The filibuster staged by the opposition at present is conducted under the fine excuse of "looking for inadequacies and rectifying omissions" but if we look at their amendments, we will find most of them actually relate to trivial matters, such as changing the colour used to indicate the Shek Kong Stabling Sidings. In addition, some amendments are nothing more than political statements, for example, to provide that the enacted ordinance is a one-off arrangement or cast doubts on whether or not the co-location arrangement is a violation of the Basic Law. In fact, the legal basis for the co-location arrangement can be found in the Decision made by the Standing Committee of the National People's Congress and the so-called provision prescribing it as one-off is really ridiculous. As Legislative Council Members, so long as a motion is beneficial to Hong Kong society and the public, we should pass it.

Deputy Chairman, if we review the situation today or the one last week, we will find 36 hours of debate are indeed insufficient for the opposition camp to engage in filibustering. Frankly, not to say 36 hours, even if 360 hours of meeting were arranged, they would still continue to filibuster. In fact, after the Agenda had been published, some people already intimated to media organizations that although they could not stop the passage of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") in the Legislative Council, they would still delay its passage as far as possible, so as to garner support and this goal is very clear. Their strategy of causing delay is designed to buy time to enable their supporters to make preparations and ferment a new round of opposition activities. Such behaviour is no longer a debate based on the merits of the matter, rather, it amounts to wrangling having regard only to one's stance but not what is right and wrong, so it is totally meaningless.

In fact, we can also see that in the trial runs of XRL, some situations have indeed arisen, including such problems as a carriage running off track and water seepage. This kind of incidents have indeed aroused doubts among the public about the quality of the project and affected public perception of XRL. However, if we look at this in terms of basic logic, engineering issues and the clearance and legal arrangements involving co-location are two different matters. One of them is about the quality of the project, the other is about the clearance arrangements. Of course, we demand that improvements be made to the project to enhance safety but this does not conflict with the clearance arrangements under the co-location arrangement. The Bill is mainly about the clearance arrangements involving co-location but the opposition camp has bundled these conditions up with the co-location arrangement and blown the issues out of proportions, and even vilified XRL. We believe they are advancing straw arguments and trying to mislead the public.

In the face of various problems, we believe the authorities certainly have to assume responsibility by finding the causes and adopting a frank and sincere attitude to ensure the safe and smooth operation of XRL when it is formally commissioned, so as to foster public confidence in the operation of XRL. There is still some time to go before the formal commissioning of XRL and it is actually not a bad thing to be able to find out the problems in a timely manner. At least, the problems could be found out in trial runs and rectifications made as quickly as possible to ensure safety and reliability when the railway really starts operation. In the final analysis, to ordinary members of the public, the safety of XRL is their prime concern and at the same time, the convenience and speed of XRL are also issues of concern to the public. Therefore, while we attach importance to safety, we also value convenience and speed very much and the co-location arrangement is precisely designed to ensure that XRL will serve its actual function of connecting the Hong Kong section of XRL to the national XRL network upon its commissioning in future.

I do not wish to spend too much time speaking because many of the amendments are indeed most trivial. Deputy Chairman, XRL is expected to commence operation in the fourth quarter of this year and the clearance arrangement of co-location is the prerequisite for the convenience and speed of XRL. In view of the foregoing reasons, I support the Bill and oppose other amendments. Thank you, Deputy Chairman.

MR HOLDEN CHOW (in Cantonese): Deputy Chairman, just now I heard Mr Alvin YEUNG accuse the President of rejecting a large number of amendments proposed by the opposition camp and claim that the amendments proposed by the opposition camp are all well grounded. He was really telling lies with his eyes wide open and misleading the public. It is as ridiculous as his previous remarks about "having a criminal record spices up one's life".

It is obvious that the amendments aim at impeding the passage of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") by means of filibustering under the pretext of making amendments. We should feel ashamed in front of the public if we do not stop them from abusing the procedure. The public has to understand that the majority of the amendments proposed by the opposition camp are based on the allegation that the Bill is in contravention of the Basic Law. They have been making groundless allegations, claiming that the co-location arrangement is in contravention of the Basic Law. Deputy Chairman, since when has the Legislative Council become the Court? Since when can a judgment be passed before trial?

Mr Paul TSE's remark during the scrutiny process was most correct. He said if Members have questions on the legality of the Bill, they should resort to the Court and let the Judge decide, instead of using the Legislative Council as a stage to pass their judgment and claim that the Bill and the co-location arrangement are in contravention of the Basic Law.

Deputy Chairman, I have to take some time to refute the amendments. One of the amendments of the opposition camp proposes to add a so-called sunset clause, that is, to add an expiry date to the Bill. This is really the most ridiculous thing in the world!

Deputy Chairman, we all know how the co-location arrangement of the Express Rail Link came about. The Hong Kong Government and the Mainland have signed the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("Co-operation Arrangement") which led to the legislative process today. Now that they want to unilaterally add an expiry date to the Co-operation Arrangement. This is no different from forcing the other party to accept the addition of a termination date in the contract after signing by both parties. Honourable Members of the opposition camp claim that they respect the law, then why do they disregard the law now? Deputy

Chairman, I find it most strange that many Members actually have a legal background. But anyway, the opposition camp has all along adopted double standards.

Deputy Chairman, I should all the more refute the amendment proposed by Mr Dennis KWOK. I really cannot help but make criticisms. He went so far as to propose an addition to the Preamble which specifies that the Co-operation Arrangement and the Decision of the National People's Congress do not form part and parcel of Hong Kong laws. In this way, do the provisions indicate either implicitly or explicitly that the Co-operation Arrangement signed has no legal effect at all? That means the Government first signed an agreement with the Mainland before enacting legislation, and then declares in the enacted legislation that the Co-operation Arrangement has no legal effect? Is this whole thing child play? If this frivolous amendment of Mr Dennis KWOK can be passed, to me there is really a collapse of traditional values and ethics in Hong Kong.

Deputy Chairman, I wish to take this opportunity to briefly refute the large number of amendments proposed by the opposition camp, which are all misleading the public. The majority of their amendments serve to filibuster. If we do not explain it clearly to the public watching the television now, they would really believe that the opposition camp has proposed the amendments for the better implementation of the co-location arrangement. But it is not the case at all. This is nothing but an attempt by the opposition camp to pull wool over people's eyes.

Deputy Chairman, I so submit.

MR SHIU KA-CHUN (in Cantonese): Deputy Chairman, what a nice coincidence that I am the one who speaks after Mr Holden CHOW, as the views that I am going to present will centre on the "most ridiculous" sunset clause referred to by him just now.

Dr Fernando CHEUNG's amendment proposes the addition of a new clause, i.e. "an expiry date of midnight on 30 June 2023 for the Ordinance". I speak in support of the amendment proposed by Dr Fernando CHEUNG to introduce a sunset clause for the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill"). As to whether it is "most ridiculous", I will speak more slowly so that Members will be able to tell whether it is "an insidious means to an ultimate end".

Why should we introduce a sunset clause for the Bill? Because the co-location arrangement is not, and should not be, permanent, and the enacted ordinance should not permanently remain in force either. The Government often publicizes the message that under the co-location arrangement, the Mainland Port Area ("MPA") is just leased to the Mainland. Last July, the then Secretary for Justice, Mr Rimsky YUEN, indicated that "the venue and space of MPA will be leased to the relevant Mainland authorities, and there will not be any transfer of property ownership." And as stated by Chief Executive Carrie LAM in the Question and Answer Session this January, "The Central Authorities are also aware that according to Article 7 of the Basic Law, although the land in Hong Kong belongs to the Central Authorities, we have full management right over it and can lease or grant it to organizations to carry out some tasks. Therefore, the Central Authorities provided a legal basis for Hong Kong to set up MPA to implement co-location as per Hong Kong's request." Hence, the Government has long been aware of Hong Kong's full management right as stipulated in the Basic Law. As this principle is not to be violated arbitrarily, it has all along been stressing that MPA is only leased, not ceded, in order to pre-empt unconstitutionality.

Nevertheless, the so-called lease is just a smokescreen, not something that actually exists. The lease arrangement has never been set out in the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("Co-operation Arrangement"). The Government has neither provided the relevant lease agreement nor specified the term of lease, the right to use MPA, the duration and the fee involved, etc. Such details have yet to be confirmed. Hence, we have reasons to believe that the arrangement this time around is practically not a lease arrangement, but will result in the permanent loss of the jurisdiction of Hong Kong over MPA.

Such an arrangement may contravene Article 7 of the Basic Law: "The land and natural resources within the Hong Kong Special Administrative Region shall be State property. The Government of the Hong Kong Special Administrative Region shall be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development. The revenues derived therefrom shall be exclusively at the disposal of the government of the Region." Now given the permanent loss of jurisdiction of Hong Kong over MPA and the removal of the

relevant land from the jurisdiction of the Hong Kong Government, it is no longer a simple matter at the lease level, and it certainly contravenes the Basic Law. Let me cite a simple example: The land used by the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region or barracks of the Chinese People's Liberation Army is also leased to the Mainland departments, but still belongs to Hong Kong. Hence, under the Basic Law, the laws of Hong Kong instead of Mainland laws should naturally be in force. Under Article 22(3) of the Basic Law, all Mainland officers in Hong Kong shall abide by the laws of Hong Kong, which is entirely different from the arrangement under which the laws of the Mainland apply in MPA.

Since the current arrangement contravenes the Basic Law, we naturally need to set an expiry date for it by making a sunset clause. In that case, it may serve as a substitute of the non-existent lease agreement, imposing a time limit on MPA to avoid contravention of the Basic Law due to permanent loss of jurisdiction, and to allow the Legislative Council to review in a timely manner the need to continue the implementation of the co-location arrangement.

While the Government always claims that the co-location arrangement of XRL is modelled on the practice of the Shenzhen Bay Port, no sunset clause as that applied to the latter has been made, thus making it far from plausible. Under section 14 of the Shenzhen Bay Port Hong Kong Port Area Ordinance passed in 2007: "This Ordinance shall expire at midnight on 30 June 2047, which is the day on which the land use period of the land use right of the Hong Kong Port Area acquired by way of the lease mentioned in paragraph (3)(b) of the preamble is to expire. If the land use right is terminated earlier or the lease is renewed after its expiry, the Secretary for Security shall by notice in the Gazette publicize the date on which the land use right or the lease (as so terminated earlier or renewed) is to expire.". Initially, this provision was added at the request of Ms Emily LAU, and Ms Miriam LAU of the Liberal Party, the then Legislative Council Members, in the Bills Committee, so that the temporal operation upon commencement of the law would be linked with the term of the lease contract of the Hong Kong Port Area, thereby avoiding the embarrassing situation of the law remains in force while the lease has expired. Back then, the Administration also pointed out the likelihood of the need for a Bill nearer the time of such expiry to deal with issues that would be ascertainable by then.

Judging from this, the Government back then was much more sensitive and smarter than it is now in handling the matter. At that time, the Government was aware of the need to make a sunset clause given that the term of the lease contract might terminate earlier due to various issues, and the need to review all sorts of legal and enforcement issues nearer the time of expiry. While it is such an important arrangement, why are similar provisions not found in the Bill? Incidentally, back then, it was expressly provided in the preamble of the Shenzhen Bay Port Hong Kong Port Area Ordinance: "determined that the land use right of the Stipulated Area be acquired by HKSAR by way of a lease under a lease contract for State-owned land signed between HKSAR Government and the People's Government of the Shenzhen Municipality of Guangdong Province", clearly showing that it was granted to Hong Kong by way of a lease contract. Why is the same approach not applicable to the co-location arrangement of XRL? I repeat, why is the same approach not adopted for the co-location arrangement of XRL? This is solid evidence of the "cession-based co-location arrangement". For this reason, I urge the pro-Government camp not to advance such arguments as "Why is the co-location arrangement possible with Shenzhen Bay, but not West Kowloon? Is it that land can only be leased from China to Hong Kong, but not the other way round?" anymore because Shenzhen Bay was handled obviously in a different way from that of the co-location arrangement today.

Mr Frank CHAN, as a new Secretary—I am also a new Member—may not be quite familiar with the operation of the former government. He has gone so far as to say that a "renewal arrangement", instead of a sunset clause, is applied to the Shenzhen Bay Port, which may be renewed after its expiry on 30 June 2047. But in fact, when it comes to the actual operation, the outcome varies. Secretary Mr Frank CHAN's remark totally contradicts the arguments put forward by members of the Bills Committee and the Government back then because as provided in the then land use arrangements: "with the State Council's approval of a submission made after the parties' mutual consultation and submitted in accordance with the relevant procedures, the land use right may be terminated earlier", and the Government also pointed out the likelihood of the need for a Bill nearer the time of its expiry to deal with issues that would be ascertainable by then. Hence, it is absolutely not a renewal arrangement, but a contingency arrangement made in order to prevent the occurrence of any untoward incidents. I suggest Secretary Frank CHAN to study the legislative process of the Shenzhen Bay Port Hong Kong Port Area Ordinance and refrain from making generalities and loose talk. I also suggest such Members from the Liberty Party as Mr Tommy CHEUNG, Mr SHIU Ka-fai, Mr Frankie YICK and Mr CHUNG

Kwok-pan to consult Ms Miriam LAU, predecessor of their party and former Legislative Council Member, about the reasons for the inclusion of a sunset clause back then, so that the Liberal Party will not denigrate its own advocacy in the past.

The SAR Government has advanced another even more absurd excuse for refusing to include a sunset clause, indicating that an end date for the co-location arrangement has not been specified in both the Decision and the Co-operation Arrangement, and it would be essential for the Hong Kong SAR Government to discuss with the Mainland in relation to the right to use MPA as well as the duration and fee involved, given that the case is not the same as that of Shenzhen Bay. If so, I then wish to ask the Government why it has called for the passage of such an ambiguous piece of legislation before discussing the right to use MPA? The Government has also advised that the Hong Kong SAR Government is conducting discussions with the Mainland and will inform members at an appropriate juncture. What is the point of reporting to the Legislative Council when the Bills Committee will have been dissolved and the Bill passed by then? He will have been made an official by then—but the Secretary is already an official now. It is precisely because of this that I consider it necessary to make a sunset clause, so that the initiative will lie with the Legislative Council to discuss and amend the existing legislation and system after finalization of all the arrangements. As advised by the Government, should there be a need to amend the Co-operation Arrangement in future, the Hong Kong SAR Government will submit an amendment Bill to the Legislative Council in the light of actual circumstances with a view to implementing the amended Co-operation Arrangement which has been approved by the State Council. At that juncture, the Legislative Council may decide whether the amendment Bill should be passed. The Government's approach has obviously made the Legislative Council reactive because if the Government does not introduce any legislative amendment at all, will it then be impossible for the Legislative Council to examine and monitor the arrangements relating to the right to use MPA? Does it not bypass the functions of the Legislative Council?

I do not understand why the pro-Government camp dreads a sunset clause that much. If the co-location arrangement turns out to be a success with no dispute, the Legislative Council will definitely see the passage of an amendment to the sunset provision five years later so that the ordinance will remain in force, thereby having no impact on the implementation of the co-location arrangement. I am afraid they oppose the sunset clause because they are troubled in mind,

worried about the serious problems with the implementation of the co-location arrangement and XRL that may surface five years later. By then, while the general public call for a halt to the co-location arrangement, the pro-Government camp may not be able to secure enough votes to amend the sunset provision, being stuck in a deadlock. I urge the pro-Government camp to vote for the amendment proposed by Dr Fernando CHEUNG if it is really confident about the co-location arrangement, so that it will have another opportunity to tell Members from the pro-democracy camp how awesome the co-location arrangement is when it is being discussed again in the Legislative Council five years later.

Deputy Chairman, is the analysis or inference just now "most ridiculous", as Mr Holden CHOW said? Or is it "an insidious means to filibuster", as he described it? Or that Members can actually see that we have stated our reasons for supporting a sunset clause only after referring to many different clauses and conducting thorough studies? If the pro-Government Members are not troubled in mind, five years later, they may boldly tell all people in Hong Kong how awesome the co-location arrangement is. Why not dare to do so?

With these remarks, I support the amendment proposed by Dr Fernando CHEUNG.

MR CHRISTOPHER CHEUNG (in Cantonese): Deputy Chairman, I speak in full support of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill"). I strongly oppose the 24 amendments proposed by the pan-democratic Members. I support the Bill because it serves to lay a sound legal basis for the implementation of the co-location arrangement of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"), thereby fully unleashing its economic benefits. I, together with the financial services sector to which I belong, give the co-location arrangement our unreserved support. I oppose the 24 amendments because they are simply groundless, defeating the main purpose of the Bill instead of making the Bill better in an attempt to hinder the implementation of the co-location arrangement. For this reason, I absolutely will not support such ill-intentioned amendments.

I believe any member of the public who is objective and rational will not oppose the Bill. As we all know, in order for XRL to fully unleash its benefits, the co-location arrangement must be implemented for its Hong Kong Section, or else it will only be a "slow train" bringing no noticeable improvement to

transport. And before implementing the co-location arrangement for XRL, local legislation must be made. While the existing Bill only consists of three parts with eight clauses in total, its preamble sets out the background to the Bill; clause 1 sets out the commencement date of the Bill; clauses 4 and 5 set out the Mainland Port Area ("MPA"); clause 6 expressly provides for the laws and jurisdiction in MPA, and clauses 7 and 8 are the supplementary provisions made for certain rights and obligations. Judging from this, the Bill has clearly set out such details as the when, what, where and how concerning the implementation of the co-location arrangement for XRL, providing a legal basis for the implementation of the co-location arrangement. I really wonder this. Except blindly opposing it for opposition's sake, what other reasons does the opposition camp have for opposing this Bill?

(THE CHAIRMAN resumed the Chair)

Next, Chairman, I wish to talk about why I oppose the amendments of the opposition camp. First of all, I consider the 11 amendments proposed in relation to the commencement and expiry dates of the Bill are simply groundless and nonsensical. Such Members as Ms Claudia MO and Mr CHAN Chi-chuen have proposed that the commencement date of the Bill be changed to the 300th day after gazettal or the 365th day after passage by the Legislative Council. Such amendments are irrational and ridiculous. As we all know, it has taken more than a decade for the Hong Kong Section of XRL to come to its current trial operation from its conception in the 1990s, which is arguably a process full of twist and turns as well as difficulties. After much waiting, members of the public are now expecting the commissioning of XRL in September, but Ms Claudia MO and Mr CHAN Chi-chuen are trying to make them wait another 300-odd days. In addition to being irrational, such amendments have prevented members of the public from enjoying the quality service of XRL early. If "time is life", their amendments are simply wasting others' time and consuming people's life. I absolutely cannot support such amendments.

According to Ms Claudia MO, as evidenced by the fact that the MTR Corporation Limited ("MTRCL"), as the operator of XRL, has recently been riddled with scandals, more time is needed to prepare for the implementation of the co-location arrangement. Undeniably, it is infuriating to see the poor performance of MTRCL these days. But since the Government has set up an

independent commission of inquiry to look into the matter, I do not think Ms Claudia MO should milk the situation of MTRCL. Meanwhile, I also advise MTRCL to cut the nonsense and do more solid work for remedial purposes, actively cleaning up the recent mess, so as not to hold XRL back.

Chairman, the amendments seeking to fix an expiry date have long been puzzling me. I do not see why an expiry date has to be fixed. What is the point of fixing an expiry date? It had never dawned on me until I heard Mr CHU Hoi-dick's speech. I recall that in his speech, Mr CHU Hoi-dick bluntly called the Bill a draconian law, so the opposition camp was eager to see its early expiry. Mr CHU Hoi-dick's speech has revealed that Members from the opposition camp, while examining the Bill, will decide whether to give the Bill their support based on their own preference rather than legal grounds. As long as a Bill is seen by them as a draconian law, they will use all sorts of means to get rid of it or scuttle it. Even if the Bill is eventually passed, they will propose all sorts of amendments, attempting to bring an early end to it. Are they conducting themselves in an objective and fair manner expected of Members? Are they examining a Bill in a rational and pragmatic manner expected of Members?

Chairman, equally ridiculous and absurd is the third amendment proposed by Mr CHAN Chi-chuen. The amendment seeks to introduce offence provisions for officers of the Mainland Authorities Stationed at the Mainland Port Area entering any area outside MPA. From the speeches of Mr CHAN Chi-chuen and a number of amendment sponsors, I have found that the sole reason for their support for the amendment is the distrust in and hostility towards officers of the Mainland Authorities Stationed at the Mainland Port Area. They have therefore proposed the introduction of offence provisions, getting ready to punish officers of the Mainland Authorities Stationed at the Mainland Port Area severely, and gone so far as to prescribe the penalties of a fine at \$10,000,000 and imprisonment for 30 years, which is downright frivolous.

In fact, the Bill has already stipulated that the laws of the Mainland would apply in MPA. Hence, it is believed that if officers of the Mainland Authorities Stationed at the Mainland Port Area commit certain offences, the relevant Mainland authorities will deal with them in accordance with law. If Mainland officers enter the area of Hong Kong and commit an offence, a sound legal system is also currently in place in Hong Kong to deal with them. Mr CHAN Chi-chuen's proposal for the introduction of offence provisions for officers of the Mainland Authorities Stationed at the Mainland Port Area entering any area outside MPA is nothing but a superfluous and redundant act.

As the saying goes, "the most nonsensical thing is yet to come". There are many more groundless amendments, but I am not going to criticize them here one by one. I will vote against them later on.

Chairman, I recall that in his speech, Mr CHU Hoi-dick mentioned "traitors to Hong Kong" and talked about the need to give Hong Kong a "shield". In this connection, I hope Members from the opposition camp can resign themselves to the reality. The implementation of the co-location arrangement for XRL has responded to not only the need for economic development, but also public opinion. I hope you people will heed public opinion, "shield" the overall interest of Hong Kong and pass the Bill instead of acting as "traitors to Hong Kong", who stand against the people and hinder the commissioning of XRL by hook or by crook.

Chairman, I so submit.

CHAIRMAN (in Cantonese): Members, I will suspend the meeting at around 9:00 pm today.

MR JAMES TO (in Cantonese): Chairman, we are now discussing the question that all the clauses stand part of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill"), so in terms of concept, I agree with Mr CHAN Chi-chuen's point that we should combine the discussion on all the issues, including some very basic principles. In fact, the question does not lie in whether we should proceed with the Second Reading. Insofar as these clauses are concerned, some Members consider that the implementation of the co-location proposal contravenes the Basic Law. If the clauses stand part of the Bill without making certain Committee stage amendments or even those proposed by certain Honourable colleagues but ruled by the Chairman as inadmissible, and the Bill becomes the legal basis of the co-location arrangement upon its Third Reading and passage, this is, from the angle of some pan-democratic Members, in contravention of the Basic Law. In our view, these arguments should also be advanced at this stage.

Chairman, regarding the legal framework of the co-location arrangement, i.e. this Bill, I would like to keep my speech direct and simple to make it easier for the public to understand, since many members of the public are watching or

listening to the live broadcast of our meeting. What the Government is proposing is that a place in Hong Kong will no longer implement Hong Kong laws. This place which originally belongs to Hong Kong will implement Mainland laws. If we put it this way, it will be easier for the public to understand. At the very beginning, when the Basic Law was enacted years ago, the whole world was told that Hong Kong would implement Hong Kong laws, whereas the Mainland would implement Mainland laws. Any Mainland law which must be implemented in Hong Kong shall be implemented in accordance with Annex III to the Basic Law. Examples are matters relating to national defence, diplomacy, the national flag, the national emblem, etc. However, in respect of matters not covered by Annex III, Mainland laws shall not be implemented in Hong Kong. Yet the present approach is to prescribe in the legislation that Hong Kong will put that place on lease and designate it in the Schedule. According to the agreement with the Mainland, that place on lease will not be under Hong Kong's jurisdiction. The Mainland will implement Mainland laws there. Hong Kong will enact such a law, that means the Bill we are now discussing, to expressly state that Hong Kong laws will not apply to that place.

This involves two major questions. First, regarding the matter of leasing the place to the Mainland authorities, when the Bills Committee was scrutinizing the relevant details, I asked the Government whether Hong Kong could specify in this Bill the Mainland laws to be implemented at this place which would be leased to the Mainland and which would not implement Hong Kong laws. This question is quite paradoxical. If it simply says that Hong Kong laws will not be implemented there, or it goes so far as to say that Mainland laws will be implemented there, that would mean all the Mainland laws. Telling from plain reading, this also makes sense. This question is quite interesting. If there is any change in Mainland laws, will Hong Kong need to amend this law, too? In theory, there should be no need to do so because we have already stated clearly that Mainland laws will be implemented there. It means the prevailing Mainland laws, but that is not prescribed in the present Bill. If we hold that the legislation refers to the prevailing Mainland laws, why can we not specify in the Hong Kong legislation which Mainland laws shall be implemented there? In theory, it should be feasible.

I remember I raised this technical question in the Bills Committee. At that time the Secretary consulted his colleague from the Department of Justice sitting beside him, that means the Solicitor General. After talking in a low voice

for a while, they replied that Mainland laws would certainly be implemented there. There was no question of Hong Kong being able to specify the laws to be implemented by the Mainland. This is roughly what they meant. I hope I have not got it wrong, but I probably have not. I know an Honourable colleague has proposed an amendment in this respect. Actually, I also wished to propose one, but since an Honourable colleague had already done so, I gave way to him and waited to see whether the President would approve it. This was about CIQ (i.e. customs, immigration and quarantine), so to speak. But eventually, it was ruled as inadmissible. According to that amendment, the Mainland will not implement all the Mainland laws. It will only implement those relating to customs clearance. In theory, this approach should be feasible. I do not understand why the President did not approve it. But never mind. I will not dwell on the details here.

This is in fact a rather complicated issue because the agreement between Hong Kong and the Mainland does not stipulate which laws must apply. I have made the following enquiry with the Secretary in the Bills Committee. According to this legal framework, can the Mainland decide of its own accord to apply its laws other than those relating to CIQ without Hong Kong's consent in the future? The Secretary did not give any direct reply. He only said there was already an agreement in place. In my view, even after the passage of the Bill, this matter is yet to end. I have recently published an article in the newspaper. I originally intended to read it out during the Second Reading debate, but I have already spoken on the relevant contents during the adjournment debate earlier. At that time the Chairman was present, too. I have raised 10 points, stating that the present approach will affect "one country, two systems" in Hong Kong and even the image of our country, as well as other people's views on Hong Kong's compliance with international treaties. If, owing to certain reasons, the Mainland will really impose such restrictions on certain laws in the future, Chairman, I think this point is crucially important. The question is, in terms of law, can we not specify in this Bill that only Mainland laws relating to CIQ shall be implemented? I think it should be feasible in law.

As mentioned by some Honourable colleagues earlier, the Government has already signed the Co-operation Arrangement mentioned in the Bill. How will it dare propose anything contrary to this agreement? But please remember, what do the contents of the agreement actually mean? Is it absolutely imperative to apply all the Mainland laws? As a matter of fact, the Government has never given any explicit reply that such is the meaning of the Co-operation Arrangement we have signed with the Mainland.

Such being the case, here comes a problem. I wish to particularly mention Mr Dennis KWOK's amendment in Appendix 7, which reads: "To avoid doubt, the instruments referred to in the preamble of this Ordinance do not form part and parcel of the Basic Law or any laws of Hong Kong." I consider it a vital amendment of critical importance. If an area in Hong Kong will enforce Mainland laws instead of Hong Kong laws (except for those listed in Annex III), and Members of the pro-establishment camp or the Government is confident that it can be directly written in the legislation and passed by the Legislative Council without violating the Basic Law, then I think they should support Mr Dennis KWOK's amendment, since they are confident that it does not contravene the Basic Law. However, if, in our mind, we actually think the documents referred to in the preamble include the agreement signed by the two places and the decision of the National People's Congress ("NPC"), then there will be a problem. Allow me to phrase it in simpler terms to make it easier for the public to understand. That is, if we simply enforce a law passed by the Legislative Council, it will not be authoritative enough. It may be held by the Court as violating the Basic Law because the Basic Law does not vest the Legislative Council with any power to pass a law allowing a certain place in Hong Kong to implement Mainland laws instead of Hong Kong laws. This is certainly infeasible because it is completely contradictory to the overall letter and legislative intent of the Basic Law.

The Government may say this is precisely the reason why we need the Hong Kong Legislative Council to put its stamp on the decision of NPC to turn it into part of Hong Kong laws. In this way, it will be authoritative enough. This argument is actually a bit tricky because if it is the decision of NPC, it does not need the stamp of Hong Kong, does it? The Hong Kong Legislative Council is subordinate to its subordinate. What legal basis is there? Hence, if we agree with this point, we should support Mr Dennis KWOK's amendment. This is not part of Hong Kong laws, so there is no need to provide the decision of NPC with a legal basis through the stamp of the Legislative Council, as the decision of NPC itself will already suffice. Dr Priscilla LEUNG has particularly written to the Bills Committee chaired by Mrs Regina IP, suggesting that the report of the Bills Committee has omitted one point, that is, as I have mentioned, the decision of NPC itself already carries a legal basis and legal effect. Nevertheless, I am not sure about her exact meaning. The Law Society of Hong Kong has recently presented an opinion, stating that originally, there were only two ways of restraining Hong Kong laws. One was the Basic Law or amending the Basic

Law. The other was interpretation of the Basic Law. Yet apart from these, something new has come up for no reason. It was the decision of NPC carrying the same legal effect as an interpretation of the Basic Law.

Here comes a problem again. I remember I made an enquiry with Secretary for Justice Teresa CHENG in the Bills Committee, and other Members also asked about it repeatedly because it is a very important question: Is the decision of NPC equivalent to an interpretation of the Basic Law? Does it carry the same effect as an interpretation of the Basic Law? The Secretary for Justice clearly replied that it was not an interpretation of the Basic Law. This is the expected answer because a decision is a decision, and an interpretation, an interpretation. How would she dare say on behalf of her superior that the two are the same? Even the Mainland experts in constitutional law would not say so. But there is problem with the last part. In fact, many Members have asked this question. I am grateful that various hardworking Honourable colleagues have repeatedly asked this question: Does it carry the same binding effect? This is a weird question. All other Members of the pro-establishment camp said, be it in the articles they published or the speeches they made outside, that it is certainly binding. Otherwise, what do we think NPC is? How would the decision made by the awe-inspiring NPC not carry any binding effect? Yet our Government only said that it carries legal effect. But does it have the same binding effect as an interpretation of the Basic Law? The Government has never answered this question. I have checked it out carefully. The Government really has never given a reply.

Chairman, never did the Government give a reply. Why is this point so important? If Members of the pro-establishment camp are indeed confident that in the future, when the Hong Kong Court of Final Appeal, the Court at the highest level, considers whether the overall arrangement of the co-location arrangement contravenes the Basic Law, it will definitely rule that the decision of NPC is equivalent to an interpretation of the Basic Law, restraining the laws and courts of Hong Kong as though it is within the framework of the Basic Law, then it stands to reason that they should not oppose Mr Dennis KWOK's amendment. That means there is no need to use the stamp of the Hong Kong Legislative Council (*The buzzer sounded*) ...

CHAIRMAN (in Cantonese): Please stop speaking.

MR CHAN CHI-CHUEN (in Cantonese): I will speak on new Part 4 (Miscellaneous) as well as new clauses 9 and 10. In his speech earlier, Mr Christopher CHEUNG opposed my two proposed amendments which seek to provide for penalties targeting officers of the Mainland Authorities Stationed at the Mainland Port Area and described me as "superfluous and redundant" and being hostile towards the Mainland law enforcement officers.

As regards whether my amendment is superfluous and redundant, I explained very clearly in my opening speech that the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("the Co-operation Arrangement") had failed to stipulate clearly whether the Mainland law enforcement officers would be allowed to enter any area outside the Mainland Port Area ("MPA"). Instead, it merely stipulates that the Mainland law enforcement officers have no law enforcement powers in areas outside MPA. In this regard, I must reiterate that when I asked the Government in the Bills Committee about the legislative intent, the Government indicated that not only would the Mainland law enforcement officers not be allowed to enforce law in areas outside MPA, they would not be allowed to enter any area outside MPA either. This reply is absolutely clear. However, the primary legislation does not stipulate clearly that the Mainland law enforcement officers will not be allowed to enter any area outside MPA under whatever circumstances. This is why I have proposed the amendments to add these two provisions under "Miscellaneous" to clear up the ambiguities in the primary legislation.

The Mainland officers working in MPA can bring many negative impacts if they can freely enter and leave MPA, though they are not allowed to enforce law in any area outside MPA. Can officers working in MPA—I have no idea where they live—go to work by XRL in MPA at the West Kowloon Station and stay in areas outside MPA to go shopping or bring two cans of powdered formula when they go home by XRL, for instance? According to the Government's reply, they shall not be allowed to do so.

Article 6 of the Co-operation Arrangement will be executed according to the Mainland laws. But how will the Mainland Government interpret the requirement that prohibits these officers from "entering any area outside the Mainland Port Area to enforce the law"? When replying to the questions raised

by Members in the Bills Committee, Secretary Frank CHAN of the Special Administrative Region ("SAR") Government indicated that not only are officers of MPA not allowed to enforce law in MPA, they cannot enter any area outside MPA either. Is there any discrepancy between the two parties insofar as their understanding is concerned? For instance, can it be interpreted as personnel working in MPA can actually enter any area outside MPA provided they will not enforce laws? This explains why I have proposed amendments to enable us to make clear definitions in enacting local legislation to prevent the occurrence of disputes in future. Regardless of what the Mainland law enforcement agency or judicial organ thinks, Hong Kong is now making it clear that personnel working in MPA shall not be allowed to enforce law or enter the Hong Kong Port Area. For instance, they cannot go to the Hong Kong Port Area for shopping before going home. It is better to make the rules clear at the beginning and be lenient afterwards. We must clarify everything to pre-empt the occurrence of unnecessary misunderstanding and conflicts in future. This is also one of the reasons for me to propose the amendment. As such, Members must examine these issues separately before debating with me whether it is clearer to say that introducing penalties under the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") can prevent the Mainland law enforcement officers from entering any area outside MPA. Meanwhile, they should determine whether it is sensible to say disputes can thus be avoided before debating with me whether the penalties proposed by me are too heavy.

I have come up with a solution to the aforesaid problem by adding a miscellaneous provision to the Bill to clearly stipulate that "any person recognized by the Central People's Government as an officer of the Mainland Authorities Stationed at the Mainland Port Area who enters any area outside the Mainland Port Area commits an offence". That said, we shall provide for the penalties, or else there is nothing we can do should any person commit an offence under the relevant provision. We must avoid making this mistake in enacting legislation. This provision, which is related to offences, serve several purposes, including clearly manifesting Article 6 of the Co-operation Arrangement to make it one of the principal clauses of the Bill, so that the law enforcement agency in Hong Kong can have laws to follow. Furthermore, this Article fully manifests the pledge made by the Government in the Bills Committee, that the Mainland law enforcement officers shall not be permitted to enter any area outside MPA. The third purpose is to clarify the powers and responsibilities. One of the clauses in my amendment provides clearly that "any person who aids, abets, counsels or procures, or conspires with another person to aid, abet, counsel or

procure any person recognized by the Central People's Government as an officer of the Mainland Authorities Stationed at the Mainland Port Area to enter any area outside the Mainland Port Area commits an offence". That means no government department has the power to authorize or permit "any person recognized by the Central People's Government as an officer of the Mainland authorities" to enter Hong Kong while performing his or her official duties. Meanwhile, it seeks to ensure that the Hong Kong Government will not violate Article 6 of the Co-operation Arrangement and the pledge made by it in the Bills Committee.

Next I wish to discuss the question concerning the level of punishment. In her speech just now, Ms Claudia MO said she had never heard me mention this question. She was right because I have to explain to Members at different levels and not every person understands that the provision for penalties and the level of penalties are two separate issues. I am not making whimsical statements. Of course, some people might consider my proposed penalties too heavy, thus giving people an excuse to accuse me of being hostile to the Mainland law enforcement officers or even rabble-rousing, inciting hatred, and showing disrespect to the Mainland law enforcement officers. Through formulating these penalties, I actually wish to adopt a proportionate approach to demonstrate the major negative impact on society should the Mainland law enforcement officers contravene the Co-operation Arrangement and the Bill while providing clearly for the corresponding responsibilities to be borne by the law enforcement officers for breaching the Co-operation Arrangement. Once convicted, law enforcement officers entering any area outside MPA or persons aiding those officers to enter any area outside MPA are liable to a fine of \$10,000,000 and imprisonment for 30 years. Although Members might be shocked when they heard these two figures, they are by no means whimsical fabrications, as there are reference standards. Actually, this penalty was made with reference drawn from the penalties provided for in the Immigration Ordinance ("IO") with respect to unauthorized entry into Hong Kong and aiding the unauthorized entry of other persons into Hong Kong, with the maximum penalty set at a fine of \$5 million and imprisonment for 14 years. IO pinpoints mainly illegal immigrants and masterminds of illegal immigrants smuggling syndicates. They might regard breaking the law as their volition and lifelong purpose of survival, but they are by no means law enforcement officers. This amendment pinpoints those Mainland law enforcement officers who break the law or violate the Co-operation Arrangement or the Decision made by the Standing Committee of the National People's Congress ("NPCSC"). In theory, the Mainland law enforcement officers should

regard obeying and safeguarding the law as their volition. Should they deliberately break the law or flout the law, should the maximum penalties imposed on them not be in line with those on illegal immigrants or masterminds of illegal immigrants smuggling syndicates? Should their penalties not be heavier than those for ordinary criminals so as to reflect the severity of their offences?

Besides, as Members all know, the co-location arrangement has already posed severe challenges to the Basic Law and caused serious damage to "one country, two systems". Should the Mainland law enforcement officers deliberately break the law by freely entering or leaving any area outside MPA, "one country, two systems" and the confidence of Hong Kong people in the Central Authorities will definitely be further undermined and the authority of the Basic Law further damaged. Both the Central Government and the Hong Kong Government will also find it difficult to implement the co-location arrangement elsewhere in Hong Kong due to the distrust of society, thereby making it impossible for the national policy to be implemented. As such, the damage done as a result of entry into any area outside MPA by Mainland law enforcement officers is far more serious than ordinary illegal immigrants or the smuggling of illegal immigrants by "snakeheads". Therefore, the penalties should be severer than those imposed for contravening entry authorized by the Immigration Department ("ImmD").

Furthermore, any person who aids, abets, counsels or procures, or conspires with another person to aid, abet, counsel or procure any person recognized by the Central People's Government as an officer of the Mainland Authorities Stationed at the Mainland Port Area to enter any area outside MPA commits an offence and is likewise liable to a fine of \$10,000,000 and imprisonment for 30 years, which is double the penalties for similar offences under IO, thus reflecting the uniqueness and severity of the relevant offences.

IO provides that—this requirement is quoted from the Ordinance, not fabricated by me—any person who aids, abets another person or causes another person to enter the territory illegally is a criminal or a "snakehead". They are neither influential persons nor public officers. The targets of my proposed amendment, that is, the abetted persons, are recognized by the Central People's Government as officers of the Mainland Authorities Stationed at the Mainland Port Area, or Mainland law enforcement officers. These persons should enjoy a higher status or level of knowledge than ordinary criminals and "snakeheads".

Hence, people who are capable of aiding or abetting them might also hold power and a very high social status. How can these rich, powerful and influential people who collaborate with the Mainland law enforcement officers to contravene the Co-operation Arrangement, the NPCSC Decision, the principle of "one country, two systems" and the Bill, thereby seriously undermining the confidence of Hong Kong people in the Central Authorities, be let off lightly? How can their penalties be only on par with those imposed on ordinary "snakeheads"?

Will Members consider it fine had I not proposed setting the penalties at a fine of \$10,000,000 and imprisonment for 30 years and following the penalties prescribed in IO at a fine of \$5 million and imprisonment for 14 years instead? Actually, Members will still have opportunities to propose amendments in future, though they cannot possibly do so on this occasion. When refuting me, Members should really find out if they are really targeting the point that the penalties proposed by me are excessively heavy. I have already explained my justification that public officers are at even greater fault should they break the law deliberately. Members may disagree with my view, but they will also advance the same argument when impeaching other Members, that is, the usual expectation on Members must be higher and more stringent than that on the ordinary public.

Furthermore, no deterrent effect can be achieved if penalties are not provided for in law. People describing my proposed penalties as heavy would remind me that when we said that the penalties were too heavy, Members would like to say "If you do not break the law, there is no need for you to be afraid of heavy penalties" or "Why should you be afraid of enacting legislation on Article 23 and the Public Order Ordinance? There is no need to be afraid of 'draconian laws' so long as you do not break the law." Members would invariably justify themselves with such logic. According to the provision now proposed, officers of the Mainland Authorities Stationed at the Mainland Port Area shall not enter any area outside MPA, and they will have no problem if they do not break the law. Why do Members describe my proposed penalty of a fine of \$10,000,000 and imprisonment for 30 years as too heavy?

Most importantly, should the pro-establishment camp join me in supporting this amendment, we can demonstrate the determination of this Council in safeguarding the Co-operation Arrangement and the co-location arrangement. Moreover, we can then send a clear message to the Mainland and the frontline law enforcement officers that they should not think that they can take advantage

of the absence of a clear provision in law and hence, they can go dating or shopping after taking XRL to go to work in Hong Kong. We will definitely not allow the Mainland law enforcement officers to contravene these two arrangements.

Lastly, some pro-establishment Members might consider my amendment as over the top and question if it is true that the Mainland law enforcement officers cannot possibly cross the line under whatever circumstances. Certainly not. In the event of fires, explosions or terrorist attacks, I believe even if the Mainland law enforcement officers cross the line and enter the Hong Kong Port Area, thereby committing the offences specified in my amendment, the Court will still make a fair ruling.

I hope I will have time to discuss clause 11 when I speak on the next occasion, which I have no time to discuss now, because I have no idea how many more times I am allowed to speak. I have already considered that, should the wording be rendered too rigid, such as exemptions are included, the Mainland law enforcement officers and agencies might interpret such wording as emergency situations and keep citing emergency situations as the reason for requesting the Hong Kong Government to allow them to enter any area outside MPA, thus making it difficult for the SAR Government to not entertain their request. Moreover, the relationship between the Hong Kong Government and the Mainland Government will be affected. Therefore, in considering this amendment, I did not include any exemptions under emergency situations. In my opinion, should such situations really arise, a fair judgment or ruling will be made by the Hong Kong law enforcement officers and the Court. Hence, I hope Members can support my amendment of adding new clauses 9 and 10.

MS TANYA CHAN (in Cantonese): Chairman, I hope that later on I will still have the time to explain my amendments to the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill").

Now, I would like to talk about the amendments proposed by other Honourable colleagues. If colleagues have read our amendments carefully, they would have noticed that in proposing our amendments, we have considered our own situation and then proposed amendments to areas we consider amendments can be made. For instance, Mr CHAN Chi-chuen and Ms Claudia MO have both proposed amendments to the commencement date stipulated in clause 1(2) of the Bill, yet the dates they proposed vary by 65 days.

Chairman, why is this point so important? If Members are interested in this, or if Members have the Bill at hand, they may refer to clause 1(2) which stipulates that, "This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette." In fact, some time ago, Secretary Frank CHAN stated unequivocally that Mainland law enforcement personnel may arrive at Hong Kong before XRL comes into operation or before the specified commencement date, and hence it is necessary for the Ordinance to come into operation on an earlier date. Just now, I heard Mr Christopher CHEUNG express his worry about possible mistakes or inadequacies, which he considers a reason for Mainland law enforcement personnel to come to Hong Kong earlier. Whether the entire area of 1 million sq ft under the West Kowloon Station will be ceded soon after the Bill is passed, it is left to the decision of one person, and that is, Secretary Frank CHAN. Of course, earlier on, Mr CHAN Chi-chuen and Ms Claudia MO have explained the reasons for proposing their amendments to change the commencement date of the Bill to 300 days or 365 days after the Bill is published in the Gazette or is passed. There is some minor difference in the date proposed, yet both amendments seek to urge the Government to pause and think, which also provide adequate time for the Secretary to submit the relevant information.

What kinds of information am I referring to? It is time for telling a story again. As "Slow Beat", or other Members, has mentioned earlier, the Government always says that the model adopted in the Bill has drawn reference from the Shenzhen Bay Port practice. Just now, in his reply before the end of the Second Reading debate, as well as his replies to Members' questions, Secretary Frank CHAN mentioned that full reference to the model adopted in the Hong Kong Port Area ("HKPA") at Shenzhen Bay Port has been drawn under the Bill. Yet, Chairman, I must point out here the steps involved in setting up HKPA at Shenzhen Bay.

For Members who have taken part in the drafting work of the Shenzhen Bay Port Hong Kong Port Area Bill ("the Shenzhen Bay Bill"), they would have understood the entire procedure. Prior to the examination of the Shenzhen Bay Bill, since the place does not belong to Hong Kong, the relevant procedures were conducted by the Chinese Authorities according to the laws of China. We understand this arrangement. What procedures were involved? If my memory has not failed me, the First Reading of the Shenzhen Bay Bill was conducted between January and February 2007. Yet as early as 31 October 2006, the Standing Committee of the National People's Congress ("NPCSC") had made a

decision including three main points. First, "the Hong Kong Special Administrative Region ("HKSAR") is authorized to exercise jurisdiction over the Hong Kong Port Area at the Shenzhen Bay Port according to the laws of HKSAR from the day on which the Shenzhen Bay Port commences operation. HKSAR is to administer the Shenzhen Bay Port Hong Kong Port Area as a closed area." Second, "the area of the Hong Kong Port Area at the Shenzhen Bay Port will be stipulated by the State Council." Third, "the land use period of the Hong Kong Port Area at the Shenzhen Bay Port will be determined by the State Council according to the provisions of the relevant laws."

Two months later—Chairman, it was exactly two months—on 30 December 2016, the State Council issued an Official Reply to stipulate the area and the land use period of HKPA at the Shenzhen Bay Port. It states that: "The Hong Kong Clearance Area is 41.565 hectares in size (based on the setting out co-ordinates as detailed at Annex I)". Chairman, Annex I has set out all the coordinates of the Clearance Area, including all the X and Y coordinates, and even made remarks like "Starting point of the bridge" and "Starting point of circular curve", and so on. Everything is set out clearly.

The second point stated in the Official Reply is that: "The land use right of the Hong Kong Port Area at the Shenzhen Bay Port is to be acquired by way of a lease under a lease contract for State-owned land signed between the Government of HKSAR and the People's Government of the Shenzhen Municipality of Guangdong Province. The land use period shall commence on the day on which the Shenzhen Bay Port commences operation and shall expire on 30 June 2047. With the State Council's approval of a submission made after the parties' mutual consultation and submitted in accordance with the relevant procedures, the land use right may be terminated earlier or the lease may be renewed after its expiry." As I mentioned earlier, the Annexes to the Official Reply of the State Council have set out all the coordinates of the Clearance Area of HKPA, and then SAR Government enacted the Shenzhen Bay Hong Kong Port Area Ordinance. After all the conditions were laid down, the SAR Government signed the relevant co-operation arrangement with the People's Government of the Shenzhen Municipality of Guangdong Province, and that is this document in my hand.

Earlier, when Secretary Frank CHAN explained the model adopted in HKPA at Shenzhen Bay, he only told part of the story but not the other part. He did not mention the preliminary steps conducted in the entire process just now but merely mentioned the Official Reply of the State Council. In the setting up of

HKPA at the Shenzhen Bay Port, the first thing was for NPCSC making the relevant decision. After that, the State Council issued the Official Reply and the SAR Government enacted the legislation according to the relevant instructions. After obtaining the authorization, the co-operation arrangement was signed.

Chairman, Members should bear in mind that in the case of implementing the co-location arrangement at the West Kowloon Station ("WKS") of XRL, the procedures were adopted in a reverse order where the Co-operation Arrangement was signed in the first place. Moreover, if Members have read the content of the Co-operation Arrangement carefully and compared it with the one adopted for HKPA at Shenzhen Port, Members would have found that the latter is more detailed. What issues are stipulated in detail in this Co-operation Arrangement on implementing co-location arrangement at WKS of XRL? They are reserved matter and non-reserved matter in Schedule 1 of the Bill. And the lease contract is also concluded based on the relevant information. Chairman, if Members still remember, by now, when Secretary Frank CHAN was asked by Mr Jeremy TAM whether the relevant area was on lease term, the Secretary just beat around the bush. He asked Members not to be over-conscious of the wording, yet he himself is very conscious of the wording of "derailment" and "non-derailment" of XRL.

Chairman, to date, the Secretary cannot even give an answer on whether it is on lease term. I consider this strange. What can we see from this case at least? At least, we can see that according to the second point of the Official Reply of the State Council, the term of lease of HKPA at Shenzhen Bay Port will expire on 30 June 2047. Let us return to the amendments proposed by colleagues. Some colleagues from the pro-establishment camp expressed earlier that it is shameless to set an expiry date for the Bill. Yet, had Members read the content of the relevant amendment in detail, they would have found the proposal logical.

Chairman, take Mr Gary FAN's amendment as an example. We all know that the co-location arrangement or the Mainland Port Area ("MPA") is set up to for XRL service—according to the Government—and the Secretary says that without the co-location arrangement, XRL will fail to serve its function and the commencement of operation may be made impossible. Yet, let us refer to Mr Gary FAN's amendment. It is stated clearly that the Ordinance will expire starting from the date when the Hong Kong section of XRL ceases to operate. If Members are interested, they may take a look at the content of Mr Gary FAN's

amendment which states that the Ordinance "shall expire starting from the date (when the Hong Kong Section of the XRL) ceases to operate", which is in line with the established policy of the Government.

Moreover, Mr CHAN Chi-chuen has also proposed a similar amendment of setting an expiry date by adding new clause 12. First, it is proposed in clause 12(1) that: "This Ordinance shall expire at midnight on 30 June 2047." This matches fully with section 14 of the Shenzhen Bay Port Hong Kong Port Ordinance. The amendment of Mr CHAN Chi-chuen is specific. It has indeed spelt out the order of the State Council in greater detail, for the State Council has only stipulated the date of 30 June, yet his amendment has also specified the time at midnight. The amendment of Mr CHAN Chi-chuen is written in a meticulous manner.

Mr CHAN Chi-chuen's amendments also include new clause 12(2). Apart from proposing that the Ordinance shall expire at midnight on 30 June in subclause (1), he also sets the condition in subclause (2). It provides that if MPA and the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link has not been in operation for 365 days consecutively at any time before midnight on 30 June 2047, this Ordinance shall expire at midnight on the 365th day of out of operation of MPA and the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. Chairman, his amendment is clear and specific, and it is not easy for the two conditions to be met. If the Hong Kong Section of XRL has been out of operation for 365 days consecutively, it means it has been left idle for a year. Besides, there are two conditions under subclause (2). Other than the condition that XRL is out of operation, it requires that MPA is also out of operation—the case should be that when XRL is out of operation, MPA will not operate. Yet, the amendment has used the word "and", which implies that after XRL ceases its operation, certain issues still have to be dealt with. The amendment has stated it equivocally. In comparison with the proposal of Mr Gary FAN, this amendment may give the authorities more time to make restoration or carry out other follow-up work.

It is not uncommon to set an expiry date in a law. One reason is that the issue addressed by the legislation is subject to a time frame, so there is an expiry date. Another reason is the emergence of certain conditions which render the law expired. Regarding the co-location arrangement for WKS of XRL, we have not seen the lease contract so far, and we do not even know if it is a lease. We may first put aside the contract period. Yet, regarding the actual area of WKS,

we only know that it covers around 100 000 sq m, which is around 1 million sq ft. If the Government is unable to provide information on the lease now, and that the Bill does not include any provision on expiry of the law, I consider the expiry clauses proposed by Mr Gary FAN and Mr CHAN Chi-chuen are both logical and reasonable. Hence, the Civic Party will definitely support these amendments.

Regarding the expiry date provision set out in the amendments proposed by other colleagues, the requirements are more stringent. In the cases of Mr CHU Hoi-dick and Dr Fernando CHEUNG, they have proposed a period of five years and three years respectively. Regarding this point, I have heard the views expressed by Dr Fernando CHEUNG earlier. He is anxious and even discontented that the Bureau has yet to give answers for certain crucial questions. It is possible that soon after the Hong Kong Section of XRL and the co-location arrangement come into operation, we will see a big pit. It is possible that we cannot stop the "bleeding" from this pit, and the people of Hong Kong have to keep filling the pit. This will not merely affect us in this generation but also the next generation. Certainly, the Government is doing this out of good intentions. Yet, I wonder if it will do a disservice. The Government intends to offer a faster and more convenient means for young people to go north to pursue development, but it turns out imposing a heavy burden on them, making them bear endless repayments. Is it fair to them? Their parents may not be able to support them. Not everyone can live on the wealth of their parents. Hence, the relevant expiry clauses are worthy of support.

Moreover, if Members have pay attention to this, they should know that one of the amendments proposed by Mr CHAN Chi-chuen includes the content of the Co-operation Arrangement. Hence, for Members from the pro-establishment camp who support the Co-operation Arrangement, there is no reason for them to oppose this amendment—I see that Mr CHAN Hak-kan is listening attentively now. Article 7 of the Co-operation Arrangement is called the "reserved matter" in the Bill, which refers to matter over which Hong Kong exercises jurisdiction. There is a Note under Item 6 of Article 7 in very small fonts—I wonder if colleagues with presbyopia can read it—stating the details for interpreting Mainland Authorities Stationed at the Mainland Port Area according to Article 6 of the Co-operation Arrangement.

Chairman, I have compared the two. The content tallies with the Co-operation Arrangement. Members may also check this. Since the content is the same, Mr CHAN Chi-chuen proposes to include this properly in the

Interpretation of the Bill, so that the content is placed in the main text and the fonts will not be so small—just like the advertisements for uncompleted properties in the past, which need to be read with a magnifying glass.

Chairman, I have just spoken on a number of amendments, and I will continue to strive for opportunities to speak later.

I so submit.

MR DENNIS KWOK (in Cantonese): Chairman, I will continue to speak on my amendments. I have to make it particularly clear that the Co-operation Arrangement and the Decision of the Standing Committee of the National People's Congress ("NPCSC") are neither part of the Basic Law nor part of any laws of Hong Kong. My amendment stipulates that for the avoidance of doubt, the instruments referred to in the preamble do not form part and parcel of the Basic Law or any laws of Hong Kong. Why do I have to propose this for avoidance of doubt? Rightly as I mentioned in my speech earlier, the Co-operation Arrangement and the Decision of NPCSC will not be regarded as part and parcel of the Basic Law or any laws of Hong Kong because of the enactment of the present legislation. We consider that this point must be highlighted unequivocally.

I have to thank Mr James TO for his clear and convincing speech just now stating the reasons for his consideration of this amendment worthy of support. Certainly, Mr James TO is an extremely experienced lawyer and also a veteran Member. I think the best presented point is that if the Co-operation Arrangement and the Decision of NPCSC are regarded as part of the laws of Hong Kong one day, it will be the heaviest blow to "one country, two systems". For if an agreement reached between the Hong Kong Government and the Mainland Government and the Decision of NPCSC may become part of the laws of Hong Kong or something allowed under the Basic Law, it means that "one country, two systems" is rendered non-existent and the functions of the Legislative Council will be reduced to close to naught. Hence, this approach will absolutely deal a severe blow to the existing constitutional order in Hong Kong.

I have already explained my amendment, new clause 9. Now, I would like to talk about another amendment proposed by Dr KWOK Ka-ki who is also from the Civic Party. His amendment proposes that: To avoid doubt, the Hong

Kong Bill of Rights Ordinance ("BORO") (Cap. 383) remains in force in the Mainland Port Area ("MPA"). I would say that among all the amendments, including my amendment, this is the most important amendment. Why? We have to go back to BORO. Back then, it was a Bill of Rights based on the International Covenant on Civil and Political Rights ("ICCPR"), seeking to make provisions in ICCPR part of the laws of Hong Kong. Why did it have to be done? Before the reunification in 1997 and before the Basic Law came into effect, the application of ICCPR could be implemented in Hong Kong only by the enactment of local legislation. Certainly, we now have the Basic Law, particularly Article 39, which stipulates that ICCPR is an extremely important provision under the Basic Law of Hong Kong which directly introduces ICCPR as part of the legal system of Hong Kong.

Why does Dr KWOK Ka-ki from the Civic Party have to propose this amendment? The reason is straightforward and Ms Tanya CHAN also mentioned this just now. The greatest problem with the present proposal on co-location arrangement is that the people of Hong Kong have been deprived of human rights and other rights which are very important to them even within the territory of Hong Kong. Certainly, the Bureau would say that the people of Hong Kong will only lose these basic human rights in a very small area, that is, MPA. Yet, I beg to differ, for basic human rights should in no circumstances be deprived. It is unacceptable to say that the rights and human rights conferred on the people of Hong Kong under ICCPR as stipulated in BORO or Article 39 of the Basic Law will not be applied in a certain area in Hong Kong. These rights should not be deprived.

Why do we feel so anxious on this issue? Of course, some people may query the possibilities of cases of infringement on human rights happening in MPA. Yet, there are many possibilities that human rights of individuals will be infringed, such as false imprisonment, unlawful detention and unlawful arrest. There may also be cases involving a person who has obtained habeas corpus from the Court. If the person is in MPA, the Court of Hong Kong cannot issue habeas corpus for him and requires Mainland personnel to release him. I recall that at the meetings of the Bills Committee, I have asked the Bureau a number of times whether there are any cases or examples of a country or a region ceasing the implementation of ICCPR after it comes into effect. In other words, ICCPR which is already in force ceases to be applicable to or becomes invalid in a certain part or region of the country. The answer is in the negative. It has never happened and no country has ever done so.

The General Comment No. 26 of the United Nations Human Rights Council mentions the Continuity of Obligations, which says, and I quote "The International Covenant on Civil and Political Rights does not contain any provision regarding its termination and does not provide for denunciation or withdrawal." This is stated unequivocally in the document. In other words, ICCPR will not cease to take effect or cease to be applicable, and it does not provide for denunciation or withdrawal. The Government is exactly doing that now. The implementation of ICCPR in Hong Kong is subject to the protection of the Basic Law and BORO. Yet, the Government now withdraws the protection provided under BORO or the International Bill of Human Rights, which is exactly the issue mentioned in the very beginning of the first paragraph of General Comment No. 26 of the United Nations.

The paper goes on to point out that: "Consequently, the possibility of termination, denunciation or withdrawal must be considered in the light of applicable rules of customary international law which are reflected in the Vienna Convention on the Law of Treaties. On this basis, the Covenant is not subject to denunciation or withdrawal unless it is established that the parties intended to admit the possibility of denunciation or withdrawal or a right to do so is implied from the nature of the treaty."

Has the SAR Government considered the relevant international laws? Has it considered the relevant customary international law? No. At the meetings of the Bills Committee, we asked the Government: On what basis does it consider it can terminate the implementation of human rights legislation now in force in a certain area or place; has it considered whether the relevant international laws allow the Hong Kong Government to do so; and has it violated the relevant international laws? It has considered none of all this.

In the second paragraph of the paper, it says that: "That the parties to the Covenant did not admit the possibility of denunciation and that it was not a mere oversight on their part to omit reference to denunciation is demonstrated by the fact that article 41(2) of the Covenant does permit a State party to withdraw its acceptance of the competence of the Committee to examine inter-State communications by filing an appropriate notice to that effect while there is no such provision for denunciation of or withdrawal from the Covenant itself."—see, it is mentioned therein that, "while there is no such provision for denunciation of or withdrawal from the Covenant itself"—"Moreover, the Optional Protocol to the Covenant, negotiated and adopted contemporaneously with it, permits States

parties to denounce it. Additionally, by way of comparison, the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted one year prior to the Covenant, expressly permits denunciation."—it is saying that these international covenants do allow a country or a region to terminate or withdraw from the implementation of the international covenants under certain circumstances, yet ICCPR does not include this kind of provisions—"It can therefore be concluded that the drafters of the Covenant deliberately intended to exclude the possibility of denunciation. The same conclusion applies to the Second Optional Protocol in the drafting of which a denunciation clause was deliberately omitted."

It is also mentioned in this paper that, in the formulation of ICCPR, it is true that no provision has been included to stipulate that after the convention comes into effect, a State or a region may suddenly announce that it will stop adopting ICCPR or that it will stop adopting ICCPR in a certain place of a country or a region. There is no such provision. It is because in the formulation of ICCPR, the United Nations has stated unequivocally that the international convention once comes into effect may not and cannot be ceased to have effect by the State or government concerned unilaterally. Besides, the provision now under discussion is a provision in ICCPR which is introduced under Article 39 of the Basic Law, and this is set out clearly in the law.

If so, should we pass the Bill now by ignoring BORO of Hong Kong, Article 39 of the Basic Law and the General Comment No. 26 of the United Nation, which stipulates the impossibility of termination and withdrawal of ICCPR? By doing so, we are throwing international laws, the United Nations, the Basic Law and the local law, BORO, out of the window. This is the most saddened and heart-rending part. For the sake of a railway and the co-location arrangement, we choose to turn a blind eye to these legal justifications, provisions and comments of the United Nations. On what basis is the Secretary asking the people of Hong Kong to trust that the SAR Government will really respect the rights of the people of Hong Kong and their rights protected by the Basic Law? How can we trust that Mainland officials will respect the rights to which the people of Hong Kong are entitled when they enforce the laws of Mainland in MPA?

If they are confident that in enforcing the laws of the Mainland in MPA, Mainland officials will not infringe the basic rights of the people of Hong Kong, they should include the provision in the legislation, requiring that in discharging

their duties, Mainland officials must respect the rights to which the people of Hong Kong are entitled under the Basic Law and BORO. If they can do this, I trust that it will at least give the people of Hong Kong confidence in the arrangement, though it still contravenes the Constitution and international laws, by telling them that Mainland law enforcement personnel will protect all the people of Hong Kong in MPA by adopting the same standard, laws and human rights. Yet, do they dare say this? If they dare, they should include BORO in the Bill by means of the present amendment, stipulating that BORO is applicable in MPA. The SAR Government should have supported and included the clause in the Bill. This is the only way to convince the people of Hong Kong and colleagues beside me, for this will demonstrate that the Government is sincere in protecting "one country, two systems", the Basic Law and the basic rights and freedom to which all the people of Hong Kong are entitled under ICCPR. Only by doing so can the Government convince the people of Hong Kong.

PROF JOSEPH LEE (in Cantonese): Chairman, I rise to speak in support of the amendments proposed by Honourable colleagues. It is a great pity that I could not speak at the stage of Second reading. While I would not speak on the Second Reading of the Bill, I would like to talk about some issues of principle.

In fact, the question under discussion today is not the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") but the co-location arrangement and the Mainland Port Area ("MPA"). Of course, the entire issue is caused by the establishment of MPA at the West Kowloon Station for XRL. I remember that in 2015, the then Secretary Prof Anthony CHEUNG promised that this scenario would not arise but I do not know why it outrageously does happen now.

Looking back on the entire issue, insofar as the co-location arrangement and XRL are concerned, from some of the arguments that I have heard, as well as the points made at the stage of Second Reading or by colleagues on the amendments earlier, actually we have to look at them separately. That is, the co-location arrangement should be considered independently, and so should XRL. If we look at them separately, we can actually see the picture more clearly. Chairman, why am I saying this? Some people support XRL and the co-location arrangement; some people support XRL but not the co-location arrangement; and some people support neither of them. There are so many different views in the community. But anyway, what we are discussing today is not about our support

for XRL or otherwise but the co-location arrangement. Simply enough, on the question of the co-location arrangement, some people support it and some do not; and of course, some people do not have any view on it. But today, we can see that nine colleagues have proposed 24 amendments, and actually this has precisely highlighted the key point which explains why we do not support the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill").

Chairman, I have been a Member of the Legislative Council for over a decade, and I have taken part in the work of some Bills Committees. Never have I come across a Bill as controversial as this one before us now. According to the procedures of deliberation, when a Bill is introduced for enactment into law, it will be referred to a Bills Committee for deliberation. Public hearings may be held in the interim. Each Member may have views on the contents of the Bill and there may be arguments probably because Members have different viewpoints and perspectives and hence, they have views on the drafting of the Bill, or they may have views on the matters proposed to be brought under regulation in terms of the content, wording or meaning of the provisions. However, I have never come across a case like this before. If we look at the text of the Bill, we can see that it is very short and does not consist of many pages. I do not see that the amendments proposed by Members to the Bill have to do with the wording or matters relating to regulation. These amendments have precisely shown the difference from the past deliberations by other Bills Committees, and the Secretary should know it very well. Indeed, Members consider that the legislative spirit and original intent of the Bill contravene the Constitution and also the Basic Law, and therefore, they have proposed 24 amendments not to improve the content but in the hope of blocking this unlawful action by all means. This is the original intent. Why is the co-location arrangement problematic? As Mr Dennis KWOK also said earlier, we should firmly stand by "one country, two systems". But if the Bill is passed today, and I believe all the amendments are going to be negated, it would actually allow "one Hong Kong, two systems".

Chairman, why would it be "one Hong Kong, two systems"? There will be MPA at the West Kowloon Station ("WKS") in future, and as we have seen, some of the amendments proposed by colleagues, such as those to clauses 1 and 6, are about how we can make this MPA disappear. Of course, Members certainly do not agree to it, and this is, after all, not going to happen. The problem lies in the making of the entire Bill. During the deliberations of the

Bills Committee, I, being a member of the Bills Committee, had listened to views, though I should confess that I did not actively take part in all of the meetings. But I did listen to views and read the papers, and we all think that the Bill is problematic and contravenes the legislative spirit and intent.

Earlier on the Secretary kept speaking in spite of the hubbub in the Chamber. With a microphone in his hand, the Secretary spoke in a loud voice, saying repeatedly that the "Three-step Process" has to be completed. Secretary, what you said was to complete the legislative procedures for the Bill. It does not mean that the Bill, after completion of the procedures, will be lawful. These are two different matters. After the passage of the Bill, whether by forcing it through this Council or getting enough supporting votes, it is true that the procedures would then be completed and that the "Three-step Process" would be completed with the passing of the Bill by the Legislative Council finally, but it does not mean that the ordinance would be constitutional in terms of law.

Former Secretary for Justice, Rimsky YUEN, departed after completing his task and can now get away with it. I do not know the reasons, and there may be a lot of different speculations, and this has nothing to do with the amendments today. But the problem is that the entire Bill is not consistent with the spirit of the Constitution, while dealing a blow to "one country, two systems" and turning Hong Kong into "one Hong Kong, two systems". I am thinking about whether, when this scenario arises in September, there will be a place probably known as the "Chinese concession" in Hong Kong. It made me think of the concessions in Shanghai that I read from history books before, such as the French concession. The situation is all the same. What will people in the concession do? They apply the laws of China and we do not have the power to interfere with it. Will this not deal a blow to us?

Even though the Secretary stressed that we would complete the proper "Three-step Process", so to speak, with the completion of the legislative exercise by the Legislative Council, we would complete work only procedurally and it does not mean that the legal spirit of the Bill is consistent with the Basic Law. We very much disagree with such an approach. I do not wish to repeat the remarks that should have been made at Second Reading. Many colleagues have pointed out that the legal basis of the Bill is flimsy but of course, the Government takes exception to that. In any case, as the Government could not make a decision or convince us, colleagues have proposed 24 amendments from which we can see that many colleagues have proposed amendments to clauses 1 and 6.

These amendments are proposed basically in the hope that MPA will expire at a certain time and will not come into effect at a certain time. This has precisely reflected our concern. But the Government will argue that this is not possible, for there is no way for it to govern the concession. When people from the Mainland performed acts permitted by Mainland laws there, Hong Kong can neither find out about them nor have any control over them, so how can protection be provided? For example, Mr Dennis KWOK talked about the Hong Kong Bill of Rights Ordinance ("BORO") just now, and this is exactly part of our concern. Can the completion of the legislative exercise render the Bill lawful and constitutional? No, Secretary, it cannot, and I believe you know it only too well. That said, you have done it anyway. But I would like the Secretary to be clear about one point. The purpose of colleagues in proposing the 24 amendments, such as the inclusion of BORO in clause 6 as proposed by Dr KWOK Ka-ki, is to protect the rights to which Hongkongers are entitled under the Basic Law and international laws.

Besides, the Bill originally consists of only eight clauses. Mr CHU Hoi-dick proposed the addition of clause 9 to provide for a time when the ordinance shall cease to have force. It made me think of the deliberations on sunset clauses years ago which aroused a lot of disputes, too. It is hoped that through these amendments, there can be a chance for the Bill, which is still unlawful and unconstitutional despite the completion of the "Three-step Process", to expire and not to come into operation, for the protection of Hongkongers.

Certainly, are there better ways to implement the co-location arrangement? Members have said that let us not argue over this point for the time being because a lot of money has been spent and the commissioning of XRL is necessary for Hong Kong to be linked up with various Mainland cities. However, we found something which is laughable because if my memory has not failed me, an administrative fee has to be paid for XRL to be linked with various Mainland cities and so, the fares may probably be expensive. But this is another issue which is not related to the Bill.

However, the amendments proposed by colleagues that I mentioned earlier are precisely meant to protect Hong Kong. While the setting up of the concession is inevitable, we hope to see it disappear as soon as possible or to spend more time to come up with some other options, in order that the Bill will not have to be passed hastily only to ensure the commissioning of XRL in September, which would otherwise lead to "one Hong Kong, two systems" in

Hong Kong, arousing concern about the situation in this concession in Hong Kong and making Hong Kong citizens worry about not having any protection of human rights and in law.

Of course, some people said that you can refrain from taking XRL if you do not like it. This seems to tally with what the Bills Committee had done as the Bill was tabled to this Council after hasty discussion and then we were told that it had to be done this way and we could propose Committee stage amendments if we did not like it. We did propose amendments, only that they are not going to be passed. Some people also said that those who do not like it can apply for judicial review after the passage of the Bill. Are these remarks not a bit too rascally? The Legislative Council, being the legislature, is duty-bound to ensure that the laws of Hong Kong are consistent with the spirit of lawmaking and that laws are enacted in an upright manner under the legal framework. According to past experiences, although there were contentions among Members over the contents of a Bill for different reasons, at least we could unanimously agree from a legal viewpoint that the Bill was consistent with the legal spirit in Hong Kong, or more precisely, the Basic Law. Chairman, the Bill seems to have failed this test. This is why colleagues have proposed some amendments, such as those to clauses 7 and 8, basically in the hope of restricting the powers of people in the concession that I talked about just now, with a view to protecting Hongkongers who have entered or are going to enter the port.

So, Chairman, we have made a lot of different voices or a lot of moves this time around, though we were still unable to beat the Secretary who made his closing remarks non-stop for half an hour during the Second Reading debate earlier on. But anyway, although it should be impossible for these 24 amendments to be passed, we hope that through these amendments, Hong Kong citizens will understand that everything we do is to protect the rights conferred on Hongkongers constitutionally by the Basic Law as well as its spirit. An example is BORO mentioned by Mr Dennis KWOK earlier on. Can these amendments be passed? They will not be passed in the end. But Chairman, the key point is that in the process, we hope that the public will know that in proposing the many amendments, our objective is to make people understand that after the Bill is passed into law, despite the Decision of NPCSC or the Co-operation Arrangement, the spirit of this law—not its content—seemingly being inconsistent with the Basic Law of Hong Kong, and under such a framework, how can it be consistent with the Basic Law? This can be done through the 24 amendments proposed by Members.

Certainly, when the amendments are put to the vote later on, many of them will be negated. But anyway, I believe since colleagues have proposed amendments to clauses 1, 6 and 8, and the addition of new clause 9, and disregarding whether they seek to invalidate the ordinance or provide for the expiry of the ordinance at a certain time or even impose restrictions on the scope of powers, it is their wish that through these amendments, Hong Kong can be afforded basic protection in respect of this Bill which is not quite lawful despite completion of the legislative procedures.

Lastly, is there a need to review the co-location arrangement? After this arrangement is put into practice, we certainly hope that the Government can further review it under the legal framework.

Chairman, I shall stop here.

CHAIRMAN (in Cantonese): Mr Paul TSE, please speak.

MR PAUL TSE (in Cantonese): Chairman, I did not press the "Request to speak" button.

MS CLAUDIA MO (in Cantonese): Mr Paul TSE had pressed the "Request to speak" button, but he said he had not. By that, he has done the Secretariat an injustice. Could they possibly be dreaming and see his "Request to speak" button lit up for no reason?

I feel very sorry. Mr Andrew LEUNG, being the Chairman, you instructed the Secretariat to send us a message that after the adjournment of the meeting this evening, we need to pack up all of our personal valuables and important documents from the desks because police officers will enter the Chamber to search for evidence. No kidding! How could you act in this way, like a villain accusing the victim? This is the Legislative Council. There is separation of powers. The Legislative Council operates independently. Yet you have invited the Police to come. Meanwhile, you reminded us to pack up our belongings first. How ridiculous! You are really at your wits' end. It is useless even if you put up a poker face. We see what you are doing ...

(Mr LUK Chung-hung stood up)

CHAIRMAN (in Cantonese): Mr LUK Chung-hung, what is your point of order?

MR LUK CHUNG-HUNG (in Cantonese): Chairman, her speech is totally irrelevant to the amendments. It bears no relevance.

CHAIRMAN (in Cantonese): Mr LUK Chung-hung, please sit down. Ms Claudia MO, please come back to the question of this debate.

MS CLAUDIA MO (in Cantonese): Yes, that is indeed so irrelevant that we absolutely have no idea what the Legislative Council is doing actually.

Earlier on, I heard Mr Christopher CHEUNG appeal here to Hongkongers not to bear irrational hatred against Mainland law enforcement officers. Basically, he was targeting Mr CHAN Chi-chuen's amendment. I wish to tell Mr Christopher CHEUNG, firstly, no one is irrational; and secondly, no one bears any hatred against Mainland law enforcement officers. The word "hatred" is terrible. Why should we bear hatred against them? They are perfectly all right. That is the case except for Hong Kong journalists who have covered news in Beijing. They were brutally treated by some people who claimed to be Mainland law enforcement officers, but later, these people said they were just ordinary members of the public. The permits of these Hong Kong journalists were snatched. At one time, those who snatched their permits said they were the victims' family members, so it had nothing to do with the Mainland officers. At another time, they said they were not their family members. They were ordinary people. Hong Kong journalists who have experienced such things in Beijing or Sichuan may really bear hatred or be wary of Mainland officers. I do not like the word "hatred".

Just now I heard Mr CHAN Chi-chuen's detailed explanation of the meaning of and justifications for his amendments. I consider him most convincing. Mentioning the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement, he said Mainland law enforcement officers should not enter Hong Kong territory. Instead, they

should only enforce the law in the Mainland Port Area ("MPA"). They should not enter and leave Hong Kong freely. "Slow Beat" cited the example that they might come to Hong Kong to buy powder formulae or carry parallel goods, but I guess they probably will not do such things. Nevertheless, despite the Government's reply that it is unlikely for Mainland officers to enter and leave freely or something like that, the Government did not stipulate it explicitly. If it is not stipulated explicitly, I think the Government should really spell it out in the miscellaneous provisions.

Honourable Members, before 1997, given that the People's Liberation Army ("PLA") would be garrisoned in Hong Kong, many Hongkongers were worried whether, when they took MTR in future, they would see a PLA soldier in PLA uniform sitting opposite them. They really wondered whether they could then look straight at him, should show him goodwill or what. It was actually upsetting. However, the existing Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region ("the Garrison Law") clearly stipulates that PLA shall observe not only Mainland laws but also Hong Kong laws in Hong Kong. This is good to both parties. The provisions are expressly stipulated so that the people will completely understand them. We never see any PLA soldier taking MTR, sitting face to face with members of the public. Such things will not happen because we have the Garrison Law which is written most clearly. We completely understand ...

(Some Members talked aloud in their seats)

CHAIRMAN (in Cantonese): Will Members please keep quiet.

MS CLAUDIA MO (in Cantonese): How noisy he is! Look at these people. What puerile primary chicks they are! Their performance can be likened to that of pre-school children. They really cannot help it. Besides, "Slow Beat" has made a detailed explanation. At first, I thought his proposed amendment was too much of an exaggeration. Any person who commits the offence stated in his amendment is liable to a fine of \$10 million and imprisonment of 30 years. Was such an exaggeration necessary? I did not study the matter as meticulously as he did. He has read the whole Immigration Ordinance ("IO"). It turns out that in this respect, the existing law in Hong Kong is rather strict, though it is unlikely

that human traffickers will really be sentenced to imprisonment of 14 years or fined \$5 million. Given that Hong Kong has such laws as IO under which the maximum fine reaches \$5 million, I think it is not exaggerating to propose a fine double in amount for a Mainland law enforcement officer who knowingly breaks the law and enters Hong Kong when he should not be in Hong Kong territory. Under IO, the maximum term of imprisonment is 14 years. Now Mr CHAN Chi-chuen proposes a term which is roughly double, i.e. 30 years. It is not too much either.

Moreover, many people misunderstand that the Court will definitely mete out the maximum penalty, but that is not the case. For example, the maximum penalty for cruelty to animals is a fine of \$200,000 and imprisonment of three years. We begged the then Secretary for Justice Rimsky YUEN to raise the penalty. At that time he explained to us in detail that at the judicial or legal level, even if a maximum penalty such as life imprisonment has been prescribed, it cannot be meted out casually. It turns out that even in serious cases of cruelty to animals, the Judge will have to draw reference from precedents. It is not that if he considers an offender has employed brutal means, he will definitely mete out the maximum term of imprisonment of three years. Consequently, in the existing cases, the defendants will at most be imprisoned for only about half a year after all sorts of mitigation.

For this reason, we should not think that Mr CHAN Chi-chuen's proposed penalty, which is a fine of \$10 million and imprisonment of 30 years, is very much an exaggeration. These are only words and figures in writing. It cannot be meted out unless there is a precedent. Even if this amendment can indeed be incorporated into the law, I still suspect whether there will be such a precedent in the future. Hence, if we are not too well versed in law, we should really talk more with judicial officers. I have discussed with Rimsky YUEN before. At that time he was willing to meet with us to talk about the penalty issue regarding animal rights. He gave a detailed explanation which we found comprehensible. However, if possible, we had better double the penalty. The maximum penalty for cruelty to animals should be more than imprisonment of three years. It should be six or ten years so that those who take pleasure in treating dogs cruelly will be duly punished, or animals such as pigs and cattle in Hong Kong will also receive more protection. Most importantly, it must carry deterrence—deterrence is now a favourite term in court—it must carry deterrence. It cannot be useless at all.

My amendment seeks put in place a buffer period—or I should say a "grace period" rather than a "buffer period"—of one year upon the enactment of this law so that we can mull it over. I especially hope Carrie LAM will mull over whether this matter of the co-location arrangement, "cession-based co-location arrangement", contravention of the Basic Law and unconstitutionality will indeed do harm to Hong Kong. In her view, it certainly will not. But serving as the Chief Executive for just one term—perhaps she will run for another term—is it worthwhile to do so? This will put the illustrious name she has earned in the past at stake. She is supposed to be a "good fighter".

I remember that last summer, Carrie LAM said to the journalists to this effect: "The co-location arrangement for the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") is an imperative. If you really do not like it, you may choose not to take it. If you really cannot accept it, you may continue to choose to take the plane, or go to the Lok Ma Chau or Huanggang Control Point by car." Carrie LAM went to the extremes to say, to this effect (I quote), "You may as well not go back to the Mainland. A small number of people in Hong Kong refrain from setting their feet on Mainland China. The right to choose rests with the passengers." A frequent saying among lecturers who teach politics and media communication is where there is a choice, there is freedom. Carrie LAM was right in saying that the right to choose rests with Hongkongers. Why do we need to be so nervous? If we do not like XRL and the co-location arrangement, we can refrain from taking it. However, as Prof Joseph LEE said just now, such a remark of telling people not to go there if it is not to their liking is indeed a bit rascally, especially when it came off the Chief Executive's lips. In fact, it is not a bit but very rascally because the construction of XRL costs some \$100 billion payable by Hongkongers. She forces us to foot the bill for the construction of XRL. I said that is not right, and she told us not to go there if we do not like it. Would Members say this is reasonable? Hence, I really hope the Hong Kong Government will think over again the impact of the whole matter on Hong Kong's history in the future. Today's news is history tomorrow. She will leave behind such things to the next generation—I did not say what will be left behind. Members may fill in the blank with their own choice—is it indeed worthwhile?

Such remarks made by Carrie LAM quoted by me just now are not only rascally. Most people will consider such words coming off the mouths of hooligans and unfair. Certainly, Carrie LAM also made the following conclusion on the same occasion: "I think members of the public need not worry about the co-location arrangement of XRL." This is really unfair to

Hongkongers. Although the executive and the legislature take the same line and her decision is final, like the President's ruling which is not subject to challenge, can we have any discussion? She said we can have discussions. Of course she would say we have freedom of speech. There is freedom and the right to choose. How very nice! Yet we find it totally inconceivable.

Another point is that in my view, even after the enactment of this law, we should still be given time to think it through and see whether this approach is credible, and whether there is a need to add anything. Let us look at such pomposity and sophistry of Secretary for Transport and Housing Frank CHAN. I really do not trust him. Last summer, Rita FAN also said that in a nutshell, if it is about trust in politics, we had better leave Hong Kong. What she said is even more straightforward. She simply suggested that we leave. Many people like Taiwan. We may go to Taiwan. When I heard her say that, I was taken aback. She seemed to be saying that Hong Kong and Taiwan each work in their own ways at a different level from the Mainland. It was strange for her to say those words. After all, if we do not like to stay here, we may just leave. But why should we leave? Should we leave because of XRL? Not that long ago, some people were afraid of the Daya Bay Nuclear Power Station. In the last century, some people did say that once the Daya Bay Nuclear Power Station was built, they would emigrate. Such words were at odds with the others. Back to our question. They hope we will trust a certain official. But I really do not trust him, especially since I am deeply influenced by a famous saying of DENG Xiaoping. He said it is only when there is a good system that good people can do good things. I do not care whether this official is a good or bad guy. If the system is defective, even a good guy cannot do anything good. In particular, sometimes I really do not know what Secretary Frank CHAN is saying. Some time ago, he strongly emphasized that WKS of XRL is a pivot. How hilarious! A pivot works in 360 degrees. That is the case with the Chek Lap Kok airport. But WKS will work in only one direction, the north. Of course, given his knowledge, the only direction in which he looks is just the north. Full stop.

(Mr Paul TSE stood up)

MR PAUL TSE (in Cantonese): Chairman, point of order.

CHAIRMAN (in Cantonese): Mr Paul TSE, what is your point of order?

MR PAUL TSE (in Cantonese): Contrary to Rule 41(4) and (5) of the Rules of Procedure, at the beginning of her speech, Ms Claudia MO accused me of not admitting to having pressed the "Request to speak" button and attributing blame to the Secretariat. I wish to make a clarification for the record. I consider her remarks extremely offensive and unfounded. I hope Ms Claudia MO—although I did not stop her then and there, it seems that she does not merit the courtesy extended to her. I think I should make a clarification for the record.

(Ms Claudia MO stood up)

CHAIRMAN (in Cantonese): Ms Claudia MO, what is your point of order?

MS CLAUDIA MO (in Cantonese): Chairman, I also have to make a clarification because I did not wrongly accuse him. It was clearly displayed on the screen. What is his name? It was first Paul TSE, then Claudia MO. He suddenly rose to say that he had not pressed the button, did he attribute blame to the Secretariat then? Did we see the indicator lit up out of nowhere?

CHAIRMAN (in Cantonese): Ms MO, please sit down. Mr WU Chi-wai, please speak.

MR WU CHI-WAI (in Cantonese): I think the Committee stage amendments were proposed with great reluctance because the major concern is still whether the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") is in compliance with the Basic Law and upholds the original intention of "one country, two systems" that we have been trying to defend. What is the crux of the Bill? It is the Co-operation Arrangement endorsed by the Standing Committee of the National People's Congress ("NPCSC") on 27 December 2017 as being constitutional and in compliance with the Basic Law. This Bill serves to implement through legislation the Co-operation Arrangement at the West Kowloon Station ("WKS") where the co-location arrangement will be adopted and the Mainland Port Area established.

When it comes to defending "one country, two systems", we rely on the Basic Law as our mainstay recourse. The interpretations of the Basic Law on several occasions in the past and amendments proposed by some Honourable

colleagues were specific to individual provisions such as Article 22 and Article 104. The Bill, however, has adopted a new approach under which NPCSC endorsed the Co-operation Arrangement and announced it lawful and constitutional. This is tantamount to—I remember someone once said—the power of formulating the Basic Law and announcing its implementation in Hong Kong. We certainly understand that NPCSC is vested the ultimate power of interpretation of the Basic Law. Our concern is that a new approach in the form of a Co-operation Arrangement is added to the existing provisions of the Basic Law, on top of the interpretation under Article 158 and amendment of the Basic Law.

Under the Co-operation Arrangement, there is no contravention of the Basic Law in the eyes of the Government as long as national laws are claimed to be applicable in part of Hong Kong to some Hong Kong people only. For the avoidance of doubt, the amendment of Mr Dennis KWOK proposes to specify in the Preamble that the documents do not form part of the Basic Law or any laws of Hong Kong, which can at least ensure that there is no obvious contravention of the Basic Law in the legislative process. However, I hold that the doubt about the constitutionality of the Bill per se will remain even after the passage of the amendment.

In fact, the issue of the constitutionality of the Bill does not lie in the way it is formulated, and drafted. Instead, the fundamental question is whether there is a provision in the Basic Law of Hong Kong that says the Co-operation Arrangement endorsed by NPCSC shall be regarded as constitutional and shall be implemented by the SAR Government through legislation? In this connection, the Secretary has never given a detailed and clear response.

I remember the Secretary for Justice has once said that the Bill will eventually be subject to the jurisdiction of the Courts of Hong Kong after enactment. The Courts will make a decision on the constitutionality and legality of the Bill. Although the Government claims that the Bill is lawful and constitutional and tries to bulldoze it through this Council, the Bill is still subject to judicial challenge and poses constitutional risks as pointed out by the two law associations. Even with the passage of the amendment proposed by Mr Dennis KWOK, it just appears to be a confirmation that the Co-operation Arrangement endorsed by NPCSC is lawful and constitutional under Hong Kong laws. But that is precisely the issue under question.

Therefore, all I can say is that despite our efforts to clarify some provisions of the Bill through the 24 amendments proposed by nine Honourable colleagues, the Bill will still be subject to challenges after enactment. Some people may say, so what if it will be challenged? There are judicial proceedings in Hong Kong. Any legislation formulated by the Government may be challenged by a judicial review. By then, the Court of Final Appeal ("CFA") will determine its constitutionality.

However, a high risk will be posed to the Basic Law regardless of the decision of CFA on the constitutionality of the Bill. If it is ruled constitutional, that means apart from Articles 158 and 159 of the Basic Law, NPCSC's decision is also constitutional. Such a confirmation is boundless as we are unsure of its scope of application. Is it applicable to the co-location arrangement of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") only, or is it applicable on other occasions in the future, posing challenges to "one country, two systems"? If it is ruled unconstitutional, there will be big problems too because NPCSC will certainly make an interpretation of the Basic Law again in the light of the CFA judgment. NPCSC will explain as to why NPC's decision is lawful, constitutional and not open to challenge by CFA.

We can imagine that either one of these two scenarios will cause significant impact and damage to the implementation of "one country, two systems". Under these circumstances, no matter how fast and efficient is XRL and how convenient is the co-location arrangement as asserted by the Government, will the public pay too high a price for it? Has the Government ever told us that the co-location arrangement at WKS actually implies the risk of undermining "one country, two systems"? Will the Secretary explain to us the risks and whether they can be fully compensated by the economic benefits of the co-location arrangement? In fact, I have not yet questioned the Secretary on whether the operation will be able to cover the costs, but I would let the matter rest there.

Actually, I really hope to consider the Bill fairly and objectively. What worries me the most is that, even if the amendment proposed by Mr Dennis KWOK is passed, we still cannot avoid the implementation of the Co-operation Arrangement, as confirmed by NPCSC, in Hong Kong after the passage of the Bill, which will lead to the application of Mainland laws within Hong Kong territory for the very first time at West Kowloon. This concerns the scope of Hong Kong's autonomy. If the Central Government considers the co-location

arrangement really necessary, should not the boundaries of Hong Kong be demarcated afresh in a serious manner strictly in accordance with the Basic Law regardless of its preference? In this way, the arrangement may still be constitutional, but it did not do so.

Former Secretary for Justice Rimsky YUEN tried hard during his tenure to think up a legal framework for the co-location arrangement by invoking Article 20 of the Basic Law, but his proposal was rejected by the Central Government and NPCSC. The former Secretary tried so hard to find a provision in the Basic Law for application, but now, the Decision of NPCSC and its endorsement are sufficient to establish the legality and constitutionality of the Co-operation Arrangement? In this way, the efforts of former Secretary Rimsky YUEN are rendered in vain, are they not? Are the five years he spent on discussing with the Central Government a waste of an opportunity for Hong Kong to hold serious discussions on the co-location arrangement?

It will also raise questions as to why there is such a big change in the legal principle of the co-location arrangement because Eva CHENG, the then Secretary for Transport and Housing, had stated that if no provision in the Basic Law could be invoked as the basis for the co-location arrangement, Mainland ports and "separate location" could be an alternative. But today, none of them, including the approach of invoking Article 20 of the Basic Law proposed by Secretary for Justice Rimsky YUEN, is an option. Instead, the Co-operation Arrangement endorsed and claimed by NPCSC to be lawful and constitutional is added.

Chairman, hence, I sincerely oppose the Bill and believe that the amendments proposed by nine Honourable colleagues are unable to deal with the core issue here, that is, the legality and constitutionality of the co-location arrangement. The co-location arrangement or the application of Mainland laws concern the scope of Hong Kong's autonomy. How can "one country, two systems" not be challenged if they can be introduced into Hong Kong simply by an endorsement of the Co-operation Arrangement?

Therefore, I am making a final appeal here and I hope everyone will do some serious thinking. Opposing the co-location Bill is the only way to uphold "one country, two systems". Thank you, Chairman.

DR FERNANDO CHEUNG (in Cantonese): Chairman, when I spoke for the first time in the committee of the whole Council, I already explained one of my amendments which proposes that the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill") shall expire after five years, that is, at midnight on 30 June 2023. I will now talk about the other two amendments.

Chairman, I have initially proposed nine amendments. Basically, the other eight amendments are related to the same concept, that is, apart from CIQ (customs, immigration and quarantine) procedures, the laws of the Mainland should be implemented in the Mainland Port Area ("MPA") under no other circumstances. In other words, fundamentally, the laws of Hong Kong should be implemented in MPA. In proposing that laws of the Mainland essential to the completion of immigration procedures be implemented at the relevant port area, we have indeed made a substantial compromise. We made it clear some time ago that the Bill violates the Constitution. Yet, to minimize the damage caused, we are willing to try our best and do our part to reduce the scope of the legislation, so that the legislation will not bring forth too many problems in future. Chairman, even in the publicity pamphlets distributed by the Government, the Government uses Customs, Immigration and Quarantine Arrangements ("CIQ") as the headline. If work at the port area refers to CIQ procedures, why does the Government have to implement laws of the Mainland in the entire area and even forgoing its jurisdiction? It is unnecessary. Hence, my amendment is extremely reasonable. Yet, the President has cut my amendments down to two items, making it neither fish nor fowl. According to the spirit of the legislation as a whole, if we back off 10 000 steps, and the Government says that MPA should be regarded as the Mainland and a region outside Hong Kong, then the Basic Law will naturally not be implemented—it is having its way by force. The Government may then propose implementing the laws of Mainland in that port area. Yet, the Government is doing that for the mere purpose of undertaking immigration procedures or port area procedures, that is, CIQ. In that case, why does the Government have to do things other than CIQ? It is unnecessary. Then, the Government says that examples of co-location arrangement are common around the world and Hong Kong is only modelling on it. It also says that the Shenzhen Bay Port Area is using this kind of arrangement. However, as I said earlier, the case of Shenzhen Bay is different, for it is not protected by the Basic Law. It is stipulated in the Basic Law that national laws of the Mainland shall not be applied in Hong Kong. It is unacceptable for the Government to do that. It is just that simple.

The Government says that the arrangement is modelled on the practices adopted overseas. It is good to hear that, for the Research Office of the Legislative Council has conducted a study and published the results on the website of the Legislative Council. I hope that colleagues from the pro-establishment camp can do some homework by reading the information collected by colleagues of the Legislative Council with hard work. The research is titled "Co-location of boundary facilities in selected places". The research is rich in information. Its content mainly includes reference of the arrangement for rail commuters between the United Kingdom and France, which is called the "juxtaposed control arrangement". As for North America, the research has also studied the arrangement of Canada and the United States where preclearance arrangements are adopted at selected Canadian airports by the United States. The research has also quoted other examples including the high-speed trains between St. Petersburg in Russia and Helsinki in Finland and the rail service from Singapore to Malaysia. The research has studied these examples, focused mainly on the co-location arrangements adopted in North America and that between the United Kingdom and France.

Chairman, according to the research paper, it is clear that the co-location arrangements adopted by these countries are subject to restrictions, unlike our case where the jurisdiction as a whole is forgone. Take the arrangement between the United States and Canada as an example. Officers of the United States are not allowed to carry firearms, yet they are allowed to use force when necessary on the condition that such force is unlikely to cause death. Within the preclearance area, officers of the United States are not empowered to arrest, as any arrest must be made by Canadian officers in accordance with Canadian laws.

As for the "juxtaposed control arrangements" between the United Kingdom and France, both countries may deploy their officers to the control zone of the other country. The powers of these officers include search, arrest and detention of persons violating the relevant boundary control legislation. Yet, these powers are also subject to restriction, as the detention of travellers should not last for more than 24 hours and it should take place in designated places. Under normal circumstances, travellers may decide not to enter the boundary of the other country and choose to return to their own country. For clear definition of jurisdiction, the mid-point of the Channel Tunnel is set as the boundary, so the definition of jurisdiction of the two countries is clear.

Therefore, I hope Members will do some homework and read the aforementioned research paper. If the Government is to adopt the co-location arrangement now operating in this world, I beg it to study the arrangement of others. The Government may say that in those examples, two countries with separate sovereignty are involved, so it is an entirely different case from that of Hong Kong. Since Hong Kong is one of the cities of the Mainland, it does not have separate sovereignty, so the co-location arrangement can be implemented easily. Sorry, this should not be done this way. We can look at the difference in the legal systems. If we first look at the difference in the case between the United Kingdom and France and the case between Canada and the United States, and then examine the difference in the legal systems between Hong Kong and the Mainland, we will then realize that the difference between Hong Kong and the Mainland is enormous. Different legal systems are implemented in the two places. Hong Kong implements common law whereas the Mainland implements continental law. In Hong Kong, we would rather let the guilty escape than to wrong the innocent, yet they would rather wrong the innocent than to let the guilty escape. We presume innocence, yet they presume guilt. We adopt the defence approach, yet they adopt the investigation approach. The legal systems of the two places are completely different. Besides, there is no such case in Hong Kong that a criminal will suddenly appear on television to plead guilty for the so-called offence. Hong Kong has its own legal system. Regarding the protection in various aspects, there is a great difference between Hong Kong and the Mainland. Some people say that there is no cause for concern. Chairman, I do not think so. We are forgoing our jurisdiction, so I definitely consider there is a cause for concern. Regarding the so-called reserved matters, including certain employment, insurance, operation safety and facility construction issues, and so on, it is said that they will be handled according to the system of Hong Kong. It is easy to say that. Chairman, come to imagine the following scenarios. If an incident occurs in MPA involving a labour dispute, say a conflict breaks out between a cleaner and his foreman or unfortunately between a technician and a visitor, which side will exercise jurisdiction? It will naturally be control officers from the Mainland. If the cleaner says that the conflict is a labour dispute yet the public security officers from the Mainland regard the case a public security issue and arrest the cleaner, to which side will the cleaner be handed after the arrest? Will the case be referred to the Court of Hong Kong because the cleaner says that it is a labour relationship issue? Will it be the case? Who has the authority to decide to which jurisdiction the case should be referred? Who will make that decision? Please tell me. I really do not know.

Yet, according to common sense, the decision will naturally be made by Mainland law enforcement personnel. Some people say that not everyone will encounter such scenarios, as a person enters MPA at his or her own will. Just like the case of you going to the Mainland, when you pass the control point at Lo Wu, you are entering Shenzhen at your own will. When you enter the territory of others, it is natural that you are subject to the jurisdiction of others. Hence, the same logic applies to the case of WKS. There is no cause for concern if one enters the area of one's own accord. Is it really the case? It is obviously not the case. Since the cleaner is assigned to work there by his foreman or contractor, he has no choice, has he? He can choose to resign, yet it means he is also choosing to face the difficulties in earning a living. If a lift technician is assigned to carry out repairs in MPA, can he refuse it? He can choose to resign. Yet, Chairman, is this really a choice? They keep saying that these issues are not important, for everyone is free to make his choice. They say there is no cause for concern for there are provisions on reserved matter in the legislation and we are protected. Is this true? Who can guarantee that the public will be treated fairly in the event of labour disputes or incidents occurring in the port area?

Let us think about it further. The Government says that MPA will be regarded as a place within the Mainland and outside Hong Kong. Yet at the same time, it says that since the territorial boundary of Hong Kong is not affected, the place is regarded as within the boundary of Hong Kong. There comes the problem, for we have signed a lot of international covenants. The Hong Kong Bill of Rights Ordinance ("BORO") which Dr KWOK Ka-ki mentioned in his amendment today is a case in point, for the Bill of Rights is included in BORO. As the Bill of Rights must be implemented throughout the territory of Hong Kong, how can we guarantee that Mainland law enforcement personnel will act in accordance with these international covenants? When they infringe human rights, how can we enforce the law? Since we have signed these covenants, we have the commitment and obligations to implement them. What can we do? Should we assign law enforcement officers of Hong Kong to enter MPA because we think they may violate those international covenants? It is impossible to do so. In such event, which side will have the say?

With the creation of this monster, we are facing all of these problems which we may not have foreseen. At issue is that there is an enormous difference between the legal systems adopted in the two places, yet the Government forgoes the jurisdiction over the entire port area, so it definitely

violates the Basic Law. We can never imagine that an area within the boundary of Hong Kong will be set aside as a specified area, yet the Government is doing this.

Hence, Mr Jeremy TAM has proposed an amendment that seeks to stipulate that such arrangement can merely be made once even though it has already been done. The Government will definitely oppose the amendment. By opposing the amendment, it implies that it can do it again, and it is subject to no restriction and can do it again any time. In other words, the Government can implement such arrangement in different places and port areas in Hong Kong. It may for other specified purposes, be it financial, transportation or trading, or other needs, specify a particularly place as outside Hong Kong and within the Mainland. By then, we will forgo our jurisdiction over that place. Even though it is unnecessary function-wise, it will forgo its jurisdiction completely.

Chairman, such practice is utterly ridiculous and unnecessary, and the price is too high. We definitely will not allow a Bill which is in violation of the constitution and unlawful to be passed by the Legislative Council.

SUSPENSION OF MEETING

CHAIRMAN (in Cantonese): The meeting is now suspended until 9:00 am tomorrow.

Suspended accordingly at 9:07 pm.

Annex I

Guangzhou-Shenzhen-Hong Kong Express Rail Link
(Co-location) Bill

Committee Stage

Amendments moved by the Honourable Gary FAN Kwok-waiClauseAmendment Proposed1
[NEGATIVED]

In the heading, by deleting “**Short title and commencement**” and substituting “**Short title, commencement and expiry**”.

1
[NEGATIVED]

By deleting subclause (2) and substituting—

“(2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette, and expires on the day of the termination of operation of the Hong Kong Section of the Express Rail Link.”.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Mr Gary FAN's supplementary question to Question 5**

In general, the Agriculture, Fisheries and Conservation Department ("AFCD") inspects licensed premises in a surprise mode, without giving prior notification to the premises. From 20 March 2017 (i.e. since the commencement of the Regulations) to May 2018, AFCD conducted a total of 6 070 inspections of licensed premises of Animal Trader Licences and Dog Breeder Licences. During the inspections, AFCD officers checked whether the relevant licence conditions and codes of practice were complied with, and would take appropriate follow-up actions as necessary.