

**Extract from minutes of meeting of House Committee  
on 21 March 2003**

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**VII. Follow-up work in respect of the incident of the Financial Secretary purchasing a vehicle shortly before the announcement of the increase in motor vehicles first registration tax**

*(Dr Hon YEUNG Sum's letter dated 10 March 2003 to the Chairman of the House Committee)*

**(a) Dr Hon YEUNG Sum's motion**

"That this Committee demands that the Government should appoint an independent Commission of Inquiry to inquire into whether the Financial Secretary's purchase of a car has constituted a breach of the Code for Principal Officials under the Accountability System and affected the integrity of the Government."

*(Dr Hon YEUNG Sum's letters dated 17 and 20 March 2003 to the Chairman of the House Committee)*

74. The Chairman referred Members to Dr YEUNG Sum's letters dated 10, 17 and 20 March 2003, and Miss Margaret NG's letter dated 19 March 2003. The Chairman further drew Members' attention that a copy of Ms Emily LAU's letter dated 18 March 2003 to CE was sent to Members on 19 March 2003 and also tabled at the meeting. The Chairman pointed out that the Administration had just provided a response to certain matters and queries raised by Members at the meeting of the Panel on Constitutional Affairs (CA Panel) on 17 March 2003, and the response had been circulated to all Member vide LC Paper No. CB(2) 1571/02-03.

75. The Chairman said that to facilitate discussion, she would invite Members to express their views separately on the respective motions proposed by Dr YEUNG Sum and Miss Margaret NG.

76. Dr YEUNG Sum said that on behalf of Members belonging to the Democratic Party (DP), he would like to propose a motion at this meeting that the House Committee should demand the Government to appoint a Commission of Inquiry to inquire into whether FS's purchase of a car

Action

constituted a breach of clauses 1.2(6) and 1.2(7) of the Code for Principal Officials under the Accountability System. Dr YEUNG explained that he had revised the wording of his motion given in his letter dated 17 March 2003 in view of recent developments of the incident. Dr YEUNG added that the revised wording of his motion was set out in his letter dated 20 March 2003.

77. Dr YEUNG said that the Government should appoint a Commission of Inquiry to inquire into FS's purchase of a car shortly before the increase in the motor vehicles first registration tax. This was because DP had doubts about FS's integrity given that FS had not disclosed all the relevant information in his first report dated 10 March 2003 to CE. Dr YEUNG pointed out that certain important facts were only revealed in FS's second report dated 13 March 2003 to CE. For instance, it was in his second report, and not the first report, that FS informed CE that at its meeting on 14 January 2003, the Budget Strategy Group (BSG) had considered a list of 18 revenue measures/options, and agreed to review several items including the first registration tax revision. Dr YEUNG was of the view that FS had been selective in providing information in his first report to CE.

78. Dr YEUNG Sum pointed out that at the meeting of the Executive Council (ExCo) on 5 March 2003, FS had still failed to declare his purchase of a new car before the tax increase, even after Dr E K YEOH, Secretary for Health, Welfare and Food (SHWF), had reported the purchase of a car. Dr YEUNG said that it was only fair to the community that a Commission of Inquiry, chaired by a judge, should be appointed to inquire into the incident, and to establish whether the Government's credibility had been affected by what FS had done.

79. Dr YEUNG Sum further said that although the Administration had stated in paragraph 6 of its response (LC Paper No. CB(2) 1571/02-03(01)) that CE had decided, in all circumstances, not to appoint a statutory or non-statutory committee to inquire into the matter, he hoped that his motion would still be discussed at this meeting.

80. Mr Albert CHAN said that although some Members might have already made up their minds about the incident, it was important to look at how the incident affected the overall operation of the Government and its systems. Mr CHAN further said that the Government had given the public the impression that in considering disciplinary actions against misconduct, it was harsh on the junior staff but lenient to the senior officials. Mr CHAN pointed out that there had been cases where junior government officers who were involved in minor misconduct, such as brief absence from duty, were warned that they could be removed from office. Mr CHAN said that it would be unfair to the 170 000 civil servants, if the Government took a lenient approach in FS's case.

Action

81. Mr CHEUNG Man-kwong said that after studying FS's two reports to CE, and CE's letter to FS, he considered that a Commission of Inquiry should be appointed as some important pieces of information were missing in these documents. Mr CHEUNG pointed out that CE had mentioned in his letter dated 15 March 2003 to FS that FS had offered to resign on 10 March, but he had not accepted FS's resignation. However, it could not be seen from FS's two reports to CE that FS had actually tendered his resignation. Mr CHEUNG said that he would like to know the actual sequence of events relating to when and how FS offered his resignation.

82. Mr CHEUNG further pointed out that in his first report to CE, FS had only mentioned the BSG meeting on 11 February 2003, but not the one on 14 January 2003 at which revenue proposals including the motor vehicles first registration tax were reviewed. In addition, when FS met with the press on 9 March 2003, he did not tell reporters that the possibility of an increase in the first registration tax had been considered by the BSG as early as 31 October 2002. Mr CHEUNG added that it was essential that FS should explain why there were such important omissions in his earlier public statements about the incident.

83. Referring to Mr CHEUNG Man-kwong's queries, Ms Emily LAU said that FS had explained at the CA Panel meeting on 17 March 2003 that he had forgotten about the BSG discussions on the first registration tax when making his earlier statements, but he had provided supplementary information in his reports. Ms LAU further said that the Government should provide proof that FS had actually tendered his resignation, e.g. copies of other correspondence between CE and FS, if any.

84. Ms Emily LAU said that a Commission of Inquiry should be appointed to inquire into the matter; otherwise, the matter would be left to be judged by the media, which was inappropriate. Ms LAU added that in simply relying on FS's two written reports which did not provide all the relevant facts, CE had been too hasty in coming to a conclusion on the matter.

85. Referring to paragraph 3 of the Administration's response (LC Paper No. CB(2) 1571/02-03(01)), Ms LAU said that the Administration had not mentioned at the CA Panel meeting on 17 March 2003 that CE had sought legal advice from the Department of Justice before coming to his conclusion. Ms LAU requested that copies of the request for legal advice and the legal advice should be provided to Members. Ms LAU pointed out that if a Commission of Inquiry was appointed, all such missing facts and information could be revealed. Ms LAU further said that if Members did not support the appointment of a Commission of Inquiry, any requests for further information should still be followed up.

Action

86. Mr IP Kwok-him said that he did not support Dr YEUNG's proposal. Mr IP further said that there was detailed discussion on the incident at the CA Panel meeting on 17 March 2003, and Members had also sought clarification on the information provided by the Administration. Mr IP pointed out that CE had already come to the conclusion that FS had breached parts of the Code for the Principal Officials under the Accountability System, and CE was of the view that what FS had done amounted to gross negligence, warranting a formal criticism from CE but not resignation.

87. Mr IP said that Members belonging to the Democratic Alliance for the Betterment of Hong Kong were of the view that what FS had done constituted gross negligence. However, they did not consider that FS had acted out of greed to save a few hundred thousand dollars or there were problems with FS's personal integrity. Mr IP further said that the present priority should be on getting Hong Kong through the difficult times, such as putting in place arrangements to strengthen economic ties with Guangdong, and minimising the adverse impact of the war between the United States (US) and Iraq on Hong Kong's economy.

88. Mr LEE Cheuk-yan said that the incident had caused the public to question the integrity of FS and the Government led by CE, and had affected public confidence. Mr LEE further said that it was only fair to both FS and the public that an independent inquiry into the matter should be conducted, and that FS might be exonerated from any wrongdoings upon conclusion of the inquiry. Mr LEE added that Dr YEUNG Sum's proposal, which was only a mild measure to address wide public concern over the incident, should be supported.

89. Mr LEE pointed out that according to the Administration's response (LC Paper No. CB(2) 1571/02-03(01)), the BSG had discussed the first registration tax at its meetings on 31 October 2002 and 14 January 2003. Mr LEE asked whether LegCo could obtain the relevant papers and minutes of the BSG meetings, and those of the ExCo meetings on 5 and 11 March 2003 by exercising the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance.

90. The Chairman advised that Mr LEE's point would be dealt with after Members had taken a decision on the respective motions proposed by Dr YEUNG Sum and Miss Margaret NG.

91. Referring to the views expressed by Mr IP Kwok-him, Mr CHEUNG Man-kwong said that he failed to see how the appointment of a Commission of Inquiry to inquire into the incident would have any impact on Hong Kong's economy. Mr CHEUNG further said that instead of relying on the Administration to provide further information in a piecemeal fashion, an

Action

impartial inquiry would reveal the full picture of the incident, and whether FS's integrity was in question. Mr CHEUNG also shared Ms LAU's view that to simply rely on the incomplete information provided in FS's two written reports, CE had been too hasty in coming to a conclusion on the incident.

92. Mr Eric LI said that there were different bodies of opinion in the community about the incident, and many accountants had reflected to him that the matter should be concluded as early as possible. Mr LI further said that Hong Kong was going through very difficult times, and the priority should be on dealing with the deficit budget, the outbreak of atypical pneumonia, and the impact of the war between US and Iraq on Hong Kong's economy. Mr LI reiterated that professionals and the business sector hoped that the matter could be settled soon, so that everyone could get on with their normal business.

93. Mr Eric LI added that while he had no objection to requests for further information made by some Members, he considered that the Administration had been very cooperative in attending the CA Panel meeting on 17 March 2003 and in providing information to Members. Mr LI reckoned that the Administration had provided 90%, if not all, of the relevant information about the incident. He therefore did not consider it necessary for the Council to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance to obtain such information. Mr LI pointed out that from his long experience serving on the Public Accounts Committee, there would be difficulties in obtaining ExCo papers. Mr LI added that a Commission of Inquiry would not necessarily be able to reach a more useful conclusion on the incident.

94. Mr Martin LEE said that FS apparently did not consider that there was any conflict of interest in his purchasing a new car shortly before the increase in the motor vehicles first registration tax. This was because in his two reports to CE, FS had only referred to the incident as a "perceived" conflict of interest.

95. Mr Martin LEE also expressed doubts as to whether FS had actually offered to resign. Mr LEE pointed out that according to the chronology of events on FS's purchase of a car, FS only told CE around noontime on 10 March 2003 that he was "willing to resign if necessary", and he "decided to formally tender resignation" after further reflection that evening, but there was no mention of his resignation in his second report to CE on 13 March 2003. Mr LEE further said that under normal circumstances, a subordinate would tender his resignation in writing to the supervisor. In FS's case, it seemed strange that FS did not submit his resignation in writing, but instead CE recorded FS's intention to resign in CE's letter dated 15 March 2003 to FS. Mr LEE added that he and his fellow legal professionals found it difficult to

Action

accept that FS had actually tendered his resignation and CE had not accepted FS's resignation.

96. Mr Martin LEE further said that he would like to know the specific matters on which CE had sought legal advice from the Department of Justice, and details of the legal advice given to CE.

97. Mr James TO said that he did not agree with Mr Eric LI that the Administration had already provided 90% of the information on the incident. Mr TO considered that there were still many unanswered queries, and an independent inquiry would assist Members and the public in finding out whether FS's purchase of a car before the tax increase amounted to gross negligence or a deliberate act to evade tax. For instance, FS had explained at the CA Panel meeting on 17 March 2003 that he had not related his purchase of a car to his official duty of considering an increase in the first registration tax. However, according to some media reports, a staff member of a car company had actually asked FS about the first registration tax, when FS visited the car company to look at new cars in January 2003. Mr TO pointed out that if a Commission of Inquiry was appointed, this piece of very useful information could be substantiated or otherwise by inviting the staff member of the car company to give evidence before the Commission.

98. Mr TO pointed out that it was also not known whether CS, who was Acting CE on 5 March 2003, had reminded principal officials to declare any possible conflict of interest at the ExCo meeting on 5 March 2003, and whether any other principal officials had declared interest at that meeting. He would also like to know whether it was FS himself who had, at the ExCo meeting on 11 March 2003, questioned whether it was necessary for SHWF to make a declaration of his purchase of a new car. Mr TO considered that such information was crucial to judging whether FS had a "guilty mind", i.e. whether FS had acted intentionally to evade tax, when he purchased a new car in January 2003. Mr TO stressed that it was in the public interest to obtain the information by way of summons issued by LegCo using powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance or by a Commission of Inquiry appointed to inquire into the incident.

99. Mr HUI Cheung-ching said that the matter had been discussed in detail for almost three hours at the CA Panel meeting on 17 March 2003. Mr HUI further said that Members belonging to the Hong Kong Progressive Alliance did not consider it necessary to appoint a Commission of Inquiry to inquire into FS's purchase of a car, as CE had already come to the conclusion that what FS had done amounted to gross negligence. Mr HUI pointed out that CE had accepted FS's explanation that he had no intention of evading tax, and it was more important for FS to focus on getting the Budget passed by the Council, and implementing the Budget proposals.

Action

100. Mr Andrew WONG, Chairman of the CA Panel, said that he had ruled Dr YEUNG Sum's motion on the appointment of a Commission of Inquiry out of order when Dr YEUNG proposed the motion at the CA Panel meeting on 17 March 2003. Mr WONG further said that he had advised Dr YEUNG to pursue his motion at a meeting of the House Committee or the Council, because the CA Panel should only deal with issues of policy of the accountability system, and not matters relating to the conduct of individual principal officials under the accountability system. Mr WONG added that he had made it clear at the CA Panel meeting on 17 March 2003 that the meeting was to provide a forum for FS to explain the incident and for Members to seek clarification from FS. The Administration had also provided supplementary information in response to certain matters and queries raised by Members at that meeting.

101. Mr Andrew WONG said that he shared the view of some Members that the Administration had provided information in a piecemeal fashion, and that FS's two reports to CE on 10 and 13 March 2003 had raised some important questions that should be answered. For instance, FS's offer of resignation was a critical piece of information, but it was nowhere mentioned in FS's two reports. Mr WONG further said that he agreed with Ms Audrey EU's analysis made at the CA Panel meeting on 17 March 2003 that the incident could constitute the common law offence of misconduct in public office.

102. Mr WONG was of the view that it was necessary to conduct an inquiry, as questions and doubts about the incident should not be left unanswered. However, as he had said in a recent radio interview, the matter should be brought to an end as soon as possible, hence a Commission of Inquiry might not be the best option. He was therefore inclined not to support the appointment of a Commission of Inquiry, but he would like to listen to the views of other Members first before taking a decision on Dr YEUNG's motion.

103. Mr Albert HO pointed out that a Commission of Inquiry could work very efficiently. It would only be fair to FS and the community that an inquiry into the incident should be independent, impartial and non-political. Mr HO said that the incident was not just about FS's integrity, it also had implications on the operation of the accountability system for principal officials. If FS had not done anything wrong, he should be exonerated. However, FS must resign should the inquiry find that his integrity was in question. Mr HO added that cases involving breaches of the Code for Principal Officials under the Accountability System should be dealt with under proper procedures, and not by CE acting alone.

Action

104. Mr Albert HO further said that he could not agree to the argument that it would not be possible for a wealthy person like FS to have the motive to evade such a small amount of tax, as this implied that rich people were not capable of committing crimes involving small sums of money. Mr HO added that an independent inquiry would be able to establish whether FS's failure to disclose the purchase of a car before the tax increase was due to his negligence or other reasons, such as dishonesty or "reckless" disregard of the Code and other rules on avoidance of conflict of interest.

105. Referring to Mr Eric LI's earlier remarks, Mr LEUNG Yiu-chung said that he did not agree that the Administration had been cooperative and had provided 90% of the information on the incident. Mr LEUNG also disagreed with Mr IP Kwok-him that FS did not have any motive to evade tax. Mr LEUNG said that it would be more appropriate for a Commission of Inquiry to make the judgement after a full inquiry into the matter. He added that an independent inquiry would help restore public confidence in the integrity of the Government, and Members should support Dr YEUNG's proposal.

106. Mr NG Leung-sing said that as CE had already given his conclusion in writing, he did not see the need for CE to appoint a Commission of Inquiry to inquire into the incident. Mr NG pointed out that a complaint against FS had already been lodged with the Independent Commission Against Corruption (ICAC), and there would be technical difficulties in obtaining evidence from witnesses if the incident was under ICAC investigation. Mr NG further said that no one was disputing that FS had not declared his purchase of a new car before the increase of the first registration tax. However, the crux of the matter was whether FS had the motive or intention to evade tax, and this was very much a matter of judgement of individual Members. Mr NG added that he did not see any need to seek further information relating to the ExCo meetings on 5 and 11 March 2003, as such information was not relevant.

107. Mr NG Leung-sing asked whether it was in order for the House Committee to discuss Dr YEUNG's motion. The Legal Adviser explained that according to Rule 75(11) of the Rules of Procedure, the House Committee could consider any item relating to the business of the Council. The Chairman added that the House Committee had, on numerous occasions in the past, considered proposals from Members requesting the Government to take certain courses of actions.

108. Ms Miriam LAU said that in addition to the three-hour discussion at the CA Panel meeting on 17 March 2003, the Administration had provided supplementary information to Members, including information relating to the ExCo meetings on 5 and 11 March 2003, and FS's two written reports to CE. Ms LAU believed that based on such information, many Members had already made up their minds on the matter. Ms LAU further said that Members



Action

belonging to the Liberal Party did not consider it necessary for CE to appoint a Commission of Inquiry to inquire into FS's purchase of a car before the tax increase.

109. Dr YEUNG Sum requested that the names of Members voting on his motion be recorded.

110. The Chairman put the following motion proposed by Dr YEUNG Sum to vote:

“That this Committee demands that the Government should appoint an independent Commission of Inquiry to inquire into whether the Financial Secretary’s purchase of a car before the tax increase has constituted a breach of sections 1.2(6) and 1.2(7) in Chapter 1 of the Code for Principal Officials under the Accountability System which state respectively that ‘Principal officials shall observe the highest standards of personal conduct and integrity at all times’ and ‘Principal officials shall ensure that no actual or potential conflict arises between their public duties and their private interests’, as well as a violation of the conduct and integrity of a principal official under the accountability system.”

111. The following 21 Members voted in favour of Dr YEUNG Sum's motion:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr SZETO Wah, Dr LAW Chi-kwong, Mr Michael MAK, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU.

112. The following 28 Members voted against Dr YEUNG Sum's motion:

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Ir Dr Raymond HO, Mr Eric LI, Mr NG Leung-sing, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr TSANG Yok-sing, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Ms Miriam LAU, Mr Ambrose LAU, Mr Timothy FOK, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr MA Fung-kwok.

113. The Chairman declared that Dr YEUNG Sum's motion was negated.

**(b) Hon Margaret NG's motion**

"That the Chief Executive Mr Tung Chee-hwa be asked to attend this Council to give an explanation on the propriety of the course of action he has adopted in the matter of the Financial Secretary's breach of Code of Conduct and to answer members' questions thereon."

*(Hon Margaret NG's letter dated 19 March 2003 to the Chairman of the House Committee)*

114. Referring to her letter dated 19 March 2003, Miss Margaret NG said that her proposal was to request CE to attend a meeting of the Council to explain the propriety of the course of action he had adopted in the matter of FS's breach of the Code for Principal Officials under the Accountability System, and to answer Members' questions.

115. Miss NG further said that she agreed with the view expressed earlier at the meeting by some Members that the matter of FS's breach of the Code should be resolved as soon as possible. However, the recent disclosure of further information had raised certain questions and doubts which needed to be answered. Miss NG believed that a personal explanation by CE at a Council meeting could help put an end to the matter.

116. Miss NG pointed out that in his letter dated 15 March 2003 to FS, CE had stated that what FS had done amounted to gross negligence, but nothing was said about FS's personal integrity. However, information made public after 15 March 2003 had cast doubts on FS's claim that he had not related the purchase of a new car in January 2003 to his official duty of considering an increase in the motor vehicles first registration tax. For instance, the chronology of events relating to discussions by the BSG on the first registration tax provided by the Administration for the CA Panel meeting on 17 March 2003 clearly indicated that the BSG had, at its meeting on 14 January 2003, agreed that the magnitude of increase in the motor vehicles first registration tax should be further reviewed. Miss NG was of the view that the purchase of a car shortly before the announcement of an increase in the motor vehicles first registration tax constituted a direct conflict of interest.

117. Miss NG further said that at the CA Panel meeting on 17 March 2003, Members raised questions on whether any principal official(s) had made a declaration of interest at the ExCo meeting on 5 March 2003, and whether the minutes of the meeting relating to the declaration, if any, were subsequently amended. After the Panel meeting, the Government made a statement confirming that apart from SHWF, no other ExCo Members had declared at the ExCo meeting on 5 March 2003 that they had ordered a private car which

Action

had not yet been registered. It was also stated that no ExCo Members had proposed at the meeting on 11 March 2003 that the minutes of the meeting on 5 March 2003 be amended. Miss NG added that it was very important for CE to let the public know what his view was in the matter of FS's breach of Code, given the disclosure of such information after 15 March 2003.

118. Miss NG pointed out that under the Securities and Futures Ordinance, which would come into operation on 1 April 2003, FS could institute proceedings before the Market Misconduct Tribunal if it appeared to FS that market misconduct, such as insider trading, had or might have taken place. Miss NG said that it would be difficult for the public to have confidence in FS undertaking such an important responsibility, if his own personal integrity was in question.

119. Miss Margaret NG reiterated that it would be in the public interest to resolve the matter of FS's breach of the Code as early as possible. It was therefore of utmost importance for CE to explain to LegCo and the public the propriety of the course of action he had taken in the matter.

120. Ms Cyd HO expressed support for Miss NG's motion. Ms HO said that when CE promulgated the introduction of the accountability system for principal officials, CE had stressed that the accountability system would improve the communication between the executive authorities and LegCo. Ms HO stressed that inviting CE to attend a LegCo meeting was nothing new. In fact, CE should make use of LegCo meetings to discuss important matters with Members, and not rely on the issuance of press releases to disseminate information to Members. Ms HO pointed out that as CE had earlier indicated that he would come to LegCo four times a year, two more CE's Question and Answer Sessions should be held in the current session. Ms HO added that to allow sufficient time for Members to ask questions, the relevant Council meeting should last for two hours, if Miss Margaret NG's proposal was agreed to.

121. Ms Cyd HO further said that Hong Kong was facing hard times, and the Government would be in a difficult position to implement new proposals if the public had doubts about the integrity of the responsible government officials. Ms HO stressed that both the Government and the community would stand to lose, if CE refused to face the public and give a full account of the incident.

122. Dr YEUNG Sum said that Members belonging to the Democratic Party supported Miss Margaret NG's motion. Dr YEUNG further said that he recalled that CE was once asked under what circumstances would he consider removing a principal official. CE had categorically responded that such action would be considered when the integrity of a principal official was in doubt.

Action

123. Dr YEUNG pointed out that CE had recently agreed to make public information relating to the declaration of interest made at the ExCo meetings on 5 and 11 March 2003. Dr YEUNG added that instead of releasing the relevant information in a piecemeal manner, CE should attend a meeting of the Council to explain to the public how he came to his conclusion about the incident, in particular, what information and evidence he had considered. Dr YEUNG stressed that the integrity of FS was crucial to the implementation of future government policies.

124. Mr James TO said that he had written two letters to CE on 18 and 19 March 2003 raising a number of queries on the press statement made by the CE's Office on the declaration of interest made in ExCo. A response was still awaited, although he had requested that it should be provided before the House Committee meeting. Mr TO further said that he supported Miss Margaret NG's proposal, as the matter was too important for questions on the matter to be answered by any person other than CE himself. Mr TO added that as CE had earlier indicated that he would come to LegCo four times a year, it was about time for the third CE's Question and Answer Session in the current session to be held.

125. Mr Martin LEE said that the incident had attracted international attention. If the matter of FS's breach of the Code was not dealt with properly and satisfactorily, FS would become a laughing-stock of the international community, and the reputation of Hong Kong and the Hong Kong Special Administrative Region Government would also be adversely affected.

126. Ms Emily LAU said that she supported Miss NG's motion. In fact, she had made a similar proposal at the CA Panel meeting on 17 March 2003, but the Administration had not responded to her proposal. Ms LAU further said that the Administration had responded selectively to some issues and queries, and not others, raised by Members at the CA Panel meeting. She considered that CE had handled the matter poorly, and he owed the public a full explanation on the course of action he had taken in the matter. Ms LAU pointed out that based on past experience, CE would still refuse to come even if Miss NG's motion was agreed to. However, as there would be two more Question and Answer Sessions to be held in the current session, CE would have to meet with Members, sooner or later.

127. Mr Albert CHAN said that the incident which started off as a "political storm" had now become a "political disaster". Given that more and more information had been released, and more and more people were found to be involved in the incident, the general public had expressed grave concern about the matter of FS's breach of the Code. Mr CHAN further said that the

Action

attendance of CE at a Council meeting would provide a forum for CE to convince the public that the matter had been handled properly and there was nothing to hide. He could not see why any Member should oppose Miss NG's motion, unless there were doubts that CE would not be able to answer Members' questions satisfactorily. In his view, the attendance of CE at a Council meeting to answer questions on the matter of FS's breach of the Code would help restore public confidence in the Government.

128. Miss Margaret NG requested the names of Members who voted be recorded. Members agreed.

129. The Chairman put the following motion proposed by Miss Margaret NG to vote:

"That the Chief Executive Mr Tung Chee-hwa be asked to attend this Council to give an explanation on the propriety of the course of action he has adopted in the matter of the Financial Secretary's breach of Code of Conduct and to answer members' questions thereon."

130. The following 20 Members voted in favour of Miss Margaret NG's motion:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr Andrew WONG, Dr YEUNG Sum, Ms Emily LAU, Mr SZETO Wah, Dr LAW Chi-kwong, Ms LI Fung-ying, Mr Michael MAK, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU.

131. The following 26 Members voted against Miss NG's motion:

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Ir Dr Raymond HO, Mr Eric LI, Mr NG Leung-sing, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr TSANG Yok-sing, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Ms Miriam LAU, Mr Ambrose LAU, Mr Timothy FOK, Dr TANG Siu-tong, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr MA Fung-kwok.

132. The Chairman declared that Miss Margaret NG's motion was negatived.

133. Dr YEUNG Sum informed Members that he would give notice to move a motion to seek the Council's approval for a select committee to be appointed and for the select committee to exercise the powers conferred by

Action

section 9(1) of the Legislative Council (Powers and Privileges) Ordinance to inquire into the incident.

134. Ms Cyd HO requested the Chairman to ask CS when the next CE's Question and Answer Session would be held. The Chairman undertook to do so.

135. Mr LEE Cheuk-yan asked whether the Administration could refuse to provide the papers and minutes of meetings of ExCo, even if the powers conferred by section 9(1) of the Legislative Council (Power and Privileges) Ordinance were invoked.

136. The Legal Adviser responded that a witness summoned under section 9(1) of the Legislative Council (Power and Privileges) Ordinance could claim immunity under certain circumstances including on the ground of public interest immunity. However, it would be too early to determine whether a witness summoned could successfully make such a claim.

137. Ms Emily LAU asked how requests for further information, such as details of the legal advice that CE had sought from the Department of Justice, should be followed up.

138. The Chairman suggested that as the supplementary information and papers were provided by the Administration in response to requests made at the meeting of CA Panel on 17 March 2003, the Panel should follow up any requests for further information. Members agreed.

139. Mr Andrew WONG said that he had no strong views on the CA Panel following up requests for further information, but he was not sure how far the Panel should follow up the matter itself.

140. The Chairman responded that the CA Panel could revert to the House Committee if it had problems in determining how far the matter should be followed up.

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