

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies ~~through direct elections, who are present. I declare the motion passed.~~

PRESIDENT (in Cantonese): Two motions with no legislative effect. The time limits for speeches by Members are set according to the recommendations of the House Committee. I only wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Monitoring the post-retirement employment of the Chief Executive, Principal Officials under the accountability system and civil servants at directorate level with private-sector organizations.

MONITORING THE POST-RETIREMENT EMPLOYMENT OF THE CHIEF EXECUTIVE, PRINCIPAL OFFICIALS UNDER THE ACCOUNTABILITY SYSTEM AND CIVIL SERVANTS AT DIRECTORATE LEVEL WITH PRIVATE-SECTOR ORGANIZATIONS

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, the most important theme of the policy address of TUNG Chee-hwa is to be resolutely

against collusion between business and the Government and to eliminate any transfer of benefits. It can be seen that the collusion between business and the Government and the transfer of benefits are deeply implanted in the minds of the public and this has formed a sweeping tide of discontent and distrust against TUNG Chee-hwa and he can never hope to wash his hands out of it.

TUNG Chee-hwa is a product of politics featuring hand-picked candidacy and small-circle election. For a long time, his policies have been heavily biased in favour of the giant consortia. From the sagas of the Cyberport, the Hunghom Peninsula and the West Kowloon project, the people are convinced that TUNG Chee-hwa has even lost sight of the principle of fair competition found in any capitalist society. All he knows is to pump benefits to the mega consortia. He is the number one man behind this collusion between business and the Government.

When the person at the top is like this, the people under him are even worse. Joseph WONG is a principal official under the accountability system. His retirement policy as applied to the senior officials results in the exemption of a huge number of retired senior officials from the policy and what these officials do is to make use of the information they have obtained from the Government as well as the social links they have established over the years and join the giant consortia, enjoy an attractive salary while taking final leave. What they do is to add fuel to this collusion between business and the Government and facilitate further transfers of benefits.

Figures will tell everything. In the year 2003 alone, Joseph WONG received a total 76 applications involving 52 retired senior officials who wanted to join private-sector organizations. Only one of these applications was rejected. All others were approved. The list of senior officials who have joined the business sector over the years is a very long one. It includes familiar names like LAM Kwong-yu, TSANG Yam-pui, Elaine CHUNG, CHAU Foo-cheong, Paul LEUNG Sai-wah, Stephen LAU Ka-man, Eddie HUI Ki-on, John HUI Chiu-yin, CHING Kwok-hoo, Christophe SOLAS, Adolf HSU Hung, LEE Kwan-ha, and so on. Such a long list is tell-tale evidence showing that the problem of senior officials joining the business sector after retirement is growing more and more acute. We must be on guard against this state of affairs and we must never overlook its significance.

But Joseph WONG is doing exactly the opposite. He is flinging wide the gate to these retired senior officials and he does not even think twice before giving them the green light. He is waiving the prohibition imposed on retired senior officials joining the private sector. He is allowing applications to become a mere formality and the sanitization period a nonentity. Such a sanitization period should be applied for at least six months, but the sanitization period for Elaine CHUNG is less than five months, that for LAM Kwong-yu is four months, that for Paul LEUNG Sai-wah is two months, CHING Kwok-hoo is one month, and CHAU Foo-cheong is even less than one week. For TSANG Yam-pui, he got a special favour from Joseph WONG and accumulated more than one year of leave and so an absurd and embarrassing thing happened and, that is, TSANG Yam-pui is serving two masters at the same time and he is a Siamese twin of an official and a businessman. He gets pay from the Government and the business sector at the same time. At a time when top officials are still civil servants, they work for the giant consortia. They get lucrative pay from the Government and from the big business at the same time. It is like once they walk out of the Government into this dazzling world they are eagerly courted by the large consortia.

Why are the giant consortia dying to get these top officials? The paper from the Government on this tells the tale. The original purpose of imposing this sanitization period is to prevent these top officials from taking part or formulating policies which may be advantageous to the prospective employers while they are still civil servants. Such a period also aims to prevent these top officials from using information and experience obtained from the Government to the benefit of their prospective employers. But Joseph WONG has been constantly relaxing the restrictions on the sanitization period and leave so that this line of demarcation between the Government and business is blurred. As such, the official plays a double role as a businessman and the two become inseparable and indistinguishable, resulting in collusion between the Government and business. The retirement system for top officials is reduced to a piece of empty paper and it is on the verge of collapse.

Being an accountable official, Joseph WONG is obliged to enforce this retirement system for top officials strictly. But the fact is Joseph WONG has not done his gate-keeping duty well. He connives and condones. He pretends that nothing has happened. He grants every wish to every retiring official and he never lets them down. And so this bottomline for post-retirement employment of top officials is constantly lifted and pushed backwards. This

culminated in the Elaine CHUNG saga. The ineptitude and dereliction of duty on the part of Joseph WONG are therefore exposed.

Elaine CHUNG used to be the Deputy Director of Housing and before her final leave and sanitization period were over, she applied to work in the Hong Kong Ferry Limited (HKF). As reported by Elaine CHUNG herself, the scope of her work includes tourism, hotels and cultural and leisure activities. An approval was obtained from Joseph WONG in less than one month.

The first blunder made by Joseph WONG is that he only acted on the application tendered by Elaine CHUNG. He did not conduct any investigation as appropriate. He made a rash decision and gave her an approval to work in HKF. Had he been a little bit more conscientious in his duty and browsed the website of HKF, he would have found easily that the main business of HKF does not lie in ferry services and tourism but in real estate development and investment. The major source of revenue of HKF is from the property development project of Metro Harbour View. Has Joseph WONG bothered to check? Why can a Deputy Director of Housing join a real estate company and give rise to such an obvious conflict of interest?

The second blunder which Joseph WONG made is that he did nothing to monitor and stop Elaine CHUNG from taking part in the publicity and tendering work of the Henderson Land Development Company Limited (Henderson Land) with respect to the West Kowloon Cultural District (WKCD) project. When Elaine CHUNG made her frequent appearances in the press conferences held by Henderson Land selling the company's WKCD proposal and the museum plan, and when Members of this Council constantly queried the role of Elaine CHUNG and her conflict of interest, Joseph WONG did not address the fact that the WKCD is a cultural cum land development project. He was so foolish as to know nothing about the fact that Elaine CHUNG had moved her office from HKF to Henderson Land. In the Legislative Council, Joseph WONG still said that there was no conflict of interest in respect of Elaine CHUNG and he was shirking the responsibility of his errors in judgement and not exercising due care in monitoring.

The feeble and flimsy excuse offered by Joseph WONG and his unabashed attempt to protect his former colleague only serve to arouse public indignation. It was only when Mr KWONG Chi-kin and I initiated a campaign among Members to jointly sign a letter requiring Joseph WONG's attendance before this Council to answer our questions that he in his typically slow manner stated his

"Six Don'ts" — forbidding Elaine CHUNG to take part in any activities related to the publicity, briefing, consultation, bidding, and so on, of the WKCD project. This move is tantamount to an admission of his former inadequacies and mistakes and it is a confession that there is conflict of interest by Elaine CHUNG.

The Elaine CHUNG affair happened because of some long-standing reasons. Joseph WONG has not done his gate-keeping duty properly and he graciously granted the wish of every retiring official. As a result, there is no discipline in matters regarding the retirement of top officials. Applications for post-retirement employment become a mere formality. The sanitization period becomes shorter and shorter — even as short as one week. But the final leave of these top officials is getting longer and longer, to the extent of more than one year. This is why so many top officials can work in private-sector organizations when their leave is not yet all taken and while they are technically civil servants, thus getting a double pay. This is simply absurd. It is because Joseph WONG made the wrong judgement, being negligent and slack in his supervision that Elaine CHUNG could join a real estate company in the name of promoting cultural activities. She engaged in bidding work on the pretext of carrying out publicity work. She even moved her office from HKF to Henderson Land. All these were done while Joseph WONG was kept in the dark. He woke up from his dreams when the matter was exposed. This is sheer folly and he can never claim innocence. He must offer his apology to pacify the public.

The Elaine CHUNG affair exposed the torn and tattered retirement system for high officials. The inadequacies must be identified and the loopholes plugged. The greatest causes of public discontent lie in the following:

- (1) The sanitization period of six months is too short and this can offer no effective means to prevent retired officials from making use of the information, experience and social links gained and established during their service in the Government to bring the greatest advantages to their prospective employers. I therefore propose that the sanitization period be extended. For officials retiring at the rank of Administrative Officer Staff Grade A1 or above, that is, those belonging to the rank of Permanent Secretaries, the sanitization period should be extended to two years. For the other directorate officers, the sanitization period should be at least one year as the Government has suggested.

As the permanent secretaries are the highest officer in charge of a department and they are close partners to the principal officials under the accountability system, they can access top secrets in the department and the information, experience and social links they have are of tremendous commercial value. Therefore, their applications for post-retirement employment must be strictly vetted to avoid causing any allegation of collusion between business and the Government and transfer of benefits.

- (2) As these top officials are still civil servants when they are on leave, how can they be allowed to be employed in a business organization while still being civil servants and hence put on a double payroll? Such a special privilege must be stopped. All senior officials must be prohibited from taking up employment in the private sector while they are on final leave and put on a double payroll.
- (3) After the reunification, as the economies of the Mainland, Hong Kong and Macao gradually merge into one, the interests of these giant consortia may stretch across geographical boundaries and these restrictions must not be applied to Hong Kong only. The Government must extend the geographical areas applicable to the regulation of business or employment locations to cover the Mainland and Macao in addition to Hong Kong. This falls within the proposals put forward by the Government and it is aimed at preventing cross-boundary transfer of benefits.
- (4) Facts have shown that the Advisory Committee on Post-retirement Employment is no more than a showcase and a rubber stamp. The reliance on an application in writing and a declaration of interest from the applicant are not sufficient in monitoring the post-retirement employment of senior officials. These loopholes must be plugged to prevent any indiscriminate granting of approval.
- (5) The Government must cease to put up the excuse of privacy and refuse to disclose information concerning the approval given to retired senior officials for employment in the private sector. I wish to make it clear that approval has to be sought from the Government. If a retiring civil servant leaves the service after the

sanitization period, there is of course no need to announce this to the public. The Government cannot put up an excuse saying that no comments will be made on individual cases and hence dodge monitoring by the public and this Council.

- (6) The Government must monitor the changes in the employment of the retired senior officials employed to the private sector so as to avoid any changes in the nature of their work and causing any conflict of interest.

The policy governing the retirement of senior officials is not only fraught with problems and it is reduced to almost a nonentity because it has been enforced loosely by Joseph WONG who abuses his discretionary power and grants approvals indiscriminately. This gives the public an impression that collusion between business and the Government is encouraged and the transfer of benefits is facilitated. So despite the stringency of the rules and regulations, there must be someone to enforce them and hold himself accountable. Only by doing so can discipline be re-established on this issue of the retirement of senior officials and that public queries about officials coming to the defence of the misconduct of other officials be dispelled.

Madam President, the power structure in the SAR is so constituted that it is executive-led; above the senior officials, there are principal officials under the accountability system and the Chief Executive as well. The existing restrictions on the principal officials after their departure from service are even looser than those on directorate officers. Though there is a Committee on Post-departure Employment under the accountability system, it is a classical example of a toothless tiger. Even when officials are employed by a private-sector organization after their departure from service and even when there is clear conflict of interest, what the Committee can do is to make a public recommendation, that is, to advise the official concerned from taking up a certain job. The Committee has no powers to prohibit the official from taking up such employment. Moreover, as reported, this so-called Post-departure Employment Committee is not yet set up after the departures of people like Antony LEUNG, Regina IP and YEOH Eng-kiong. There is nothing as yet on how monitoring and recommendations are to be carried out and it is actually a joke. Just imagine now that three years have passed since the establishment of the accountability system and the principal officials are about to complete their term of office, what is being done to prevent collusion between business and the

Government in the yet higher echelons and how can more serious conflicts of interest be pre-empted? Should the system not be improved?

Madam President, rules and regulations governing the retirement of senior officials are not followed despite their existence, rules and regulations governing the departure of accountable officials are difficult to enforce, and there are no rules and regulations governing the departure of the Chief Executive at all. This is because the Chief Executive is not a civil servant and the incumbent is not subject to regulation imposed by the provisions of the Prevention of Bribery Ordinance on government and public officers. Therefore, the Chief Executive is over and above the law. Now it has been seven years after the reunification and the Chief Executive has completed his first term and he is now in his second term, but the law governing the departure of the Chief Executive is not yet in place and it is still a castle in the air. Why can the Chief Executive enjoy such a prerogative that he is not subject to any regulation? Why is the law governing the Chief Executive never enacted and why does it never come out? This is the greatest mockery of a society with all its claims about the rule of law. It is also the greatest laughing stock for a civilized society.

Integrity and righteousness are the core values of a government. They must never be reduced to empty talks but must be materialized in the form of laws and regulations. The current laws and regulations governing the post-retirement employment of senior officials in private-sector organizations are fraught with inadequacies and loopholes, loosely enforced and displaying a dereliction of duty on the part of the official in charge. These are three major evils. The motion in this Council today calls for the eradication of these three major evils to realize the policy direction proposed by TUNG Chee-hwa, that is, to act resolutely against collusion between business and the Government and eliminate any transfer of benefits.

With these remarks, Madam President, I beg to move.

Mr CHEUNG Man-kwong moved the following motion: (Translation)

"That, since the approval granted to Ms Elaine CHUNG Lai-kwok, former Deputy Director of Housing, for her post-retirement employment with a private-sector organization has aroused severe criticisms from the community and called into question the existence of a conflict of interest between her present job and her previous service in the Government, in

order to restore the public's confidence in the retirement system of senior officials, this Council urges the Government to immediately amend, monitor the implementation of and strictly enforce the policies and measures governing the post-retirement employment of civil servants with private-sector organizations, which should include:

- (a) extending the present period of six months to two years the sanitization period for officers retiring at the rank of Administrative Officer Staff Grade A1 or above, and to one year for other directorate officers;
- (b) prohibiting directorate officers from taking up employment with private-sector organizations during their pre-retirement leave to guard against double pay;
- (c) expanding the regulation of business or employment locations to cover mainland China and the Macao Special Administrative Region, in addition to Hong Kong;
- (d) identifying loopholes in the work of the Advisory Committee on Post-retirement Employment to prevent the Committee from becoming a rubber stamp which approves applications indiscriminately;
- (e) making public information on the approvals granted by the Government for civil servants at directorate level to take up post-retirement employment with private-sector organizations; and
- (f) closely monitoring the changes in the nature of post-retirement employment taken up by directorate officers with private-sector organizations after such approvals have been granted so as to ensure that there is no conflict of interest between their post-retirement employment and their previous service in the Government;

Furthermore, this Council also calls upon Mr Joseph WONG Wing-ping, Secretary for the Civil Service, to apologize for the mishandling of the incident of Ms Elaine CHUNG Lai-kok, and urges the Administration to amend the relevant policies by exercising appropriate and forceful

regulation over the post-departure or post-retirement employment of the Chief Executive and the principal officials under the accountability system with private-sector organizations, so as to achieve the policy direction of 'resolutely against collusion between business and the Government to eliminate any transfer of benefits' announced in the Chief Executive's 2005 Policy Address, thereby ensuring that upon the departure of the Chief Executive, principal officials and directorate officers, they do not enter into any business or take up any employment which may constitute a conflict of interest with their previous service in the Government or adversely affect the image of the Government."

PRESIDENT (in Cantonese): I now propose the following question to you and that is: That the motion moved by Mr CHEUNG Man-kwong be passed.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated in a joint debate.

I now call upon Mr TAM Yiu-chung to speak and move his amendment.

MR TAM YIU-CHUNG (in Cantonese): Madam President, an ancient Chinese classic called *Cai Gen Tan* has a line to the following effect: Never come before others in matters of favours and advantages while never lag behind others in matters of virtuous endeavours. This is exactly what the people of Hong Kong expect from senior civil servants. Recently, public concern is again aroused over incidents involving the post-retirement employment of senior officials in private-sector organizations. This shows that the public expects highly of senior officials in terms of their conduct. As the Chief Executive said in the policy address, there were "significant changes in social and political behaviour, the media environment, as well as demands on, and expectations of, the Government on the part of the public at large". As for the issue of senior civil servants engaging in employment after they have retired, the public shares two concerns. First, conflicts of interest. Will the retired officer make use of the information obtained and social links established while in service to assist his new employer in gaining any advantage? Second, favouritism. Will the officer, while serving in the Government, show any favour to any of these giant

consortia to pave the way for his or her new job after retirement? These misgivings will affect public confidence in the senior officials and in turn also affect the credibility of the Government. Therefore, the Government must face this problem squarely and take positive steps to improve the system so that senior officials can be prevented from taking up any employment after retirement which would lead to any conflict of interest in relation to their former public office.

Ever since 1997, this Council has on many occasions discussed the issue of the post-retirement employment of senior officials. In last May the Public Service Panel of this Council held a special meeting to discuss in detail the growing trend of senior officials joining the private sector shortly after their retirement or during their final leave. The meeting urged the Government to expeditiously conduct review of the vetting and approval mechanism in order to prevent any damage to the image of the Government. The Civil Service Bureau undertook to carry out such a review. However, a report of the review will only be completed and released this March. It is regrettable to see the pace of government action lag behind public demands.

Recently, the Secretary for the Civil Service said on many occasions that the Government planned to lengthen the sanitization period governing the post-retirement employment of civil servants from six months to one year, to enhance the transparency of the mechanism and to disclose on a regular basis information about the employment undertaken by retired officers in private-sector organizations. While this tightening direction is correct, there still remains a distance away from public expectations in terms of the yardstick adopted.

Yesterday the Senior Non-expatriate Officers Association held a press conference to oppose this tightening of restrictions on retirement. We understand their worries but we cannot overlook the fact that in the eyes of the public, the remuneration and retirement protection enjoyed by the senior civil servants in Hong Kong are among the best in the world. Their attractive pension payments are sufficient to maintain their existing standard of living. There would be no need for them to join the private sector in such a hurry right after they have retired. Even if they do not involve in any actual transfer of benefits, they would be suspected of causing conflicts of interest. At this time when society is seriously divided and different social classes are in confrontation, the Government must not ignore the misgivings of the public about certain

retired senior officials who have joined private-sector organizations and dismiss them as isolated cases. The entire system must be tightened up full scale. A clear-cut and uniform regulatory system must be built. The use of discretionary powers in vetting applications must be reduced. Only by doing so that the Government can maintain its credibility and image of impartiality in the eyes of the public.

The motion moved by Mr CHEUNG Man-kwong today shares a roughly similar direction with that of the DAB. However, there are some problems with some of the details. Therefore, I would move my amendment with three aspects in mind. These are: First, to extend the present sanitization period to at least one year across the board; second, to delete the proposal in the original motion on expanding the regulation of business or employment locations to cover mainland China and Macao in addition to Hong Kong; and third, the DAB is of the view that a review of the handling of the Elaine CHUNG case should be completed and the report released as soon as possible, persons to be held accountable should be identified and penalties determined.

With respect to the first item in the amendment, the original motion proposes that the sanitization period for officers retiring at the rank of Administrative Officer Staff Grade A1 or above be extended to two years. Under the existing Pensions Ordinance, civil servants who wish to take up employment within two years of retirement must lodge an application with the Government. If not, pension payments may be suspended. This provision empowers retired civil servants to apply for taking up of employment within two years of retirement. However, if all retired civil servants are universally barred from taking up employment in the private sector for a two-year period after retirement, that would deprive retired civil servants of their statutory right to employment completely and in a direct manner. This is not justified on legal grounds. If this sanitization period is revised to at least one year and strict vetting would be applied to applications from officers retiring at the rank of Administrative Officer Staff Grade A1 or above and a sanitization period of at least one year or even two years is imposed, with the final decision to be made by the Advisory Committee on Post-retirement Employment, then the possible conflicts in law can be avoided while the restrictions can be tightened.

For part (c) of the original motion on expanding the regulation of business or employment locations, though the DAB is of the view that the regulation on conflicts of interest should not be limited by any geographical bounds, as the proposal in the original motion implies changes to the existing conditions of

service of civil servants and legal disputes in this respect are not yet resolved, so the proposed restriction should not be imposed at this stage.

The focus of the regulation of post-retirement employment of civil servants should be placed on avoiding any conflict of interest between the employment a retired officer may wish to take up and his former position in the Government. Such a focus does not lie in the location of such prospective employment.

Madam President, I hope very much that Members will support my amendment and that they will make their views known on the policy in this regard. Thank you, Madam President.

Mr TAM Yiu-chung moved the following motion: (Translation)

"To delete "to Ms Elaine CHUNG Lai-kwok, former Deputy Director of Housing, for her" after "That, since the approval granted" and substitute with "in recent years to a number of civil servants at directorate level for their"; to delete "a" after "post-retirement employment with"; to delete "organization" after "private-sector" and substitute with "organizations"; to delete "severe criticisms from the community and called into question the existence of a conflict of interest between her present job and her previous service in the Government" after "has aroused" and substitute with "public concern"; to delete "restore the public's confidence in the retirement system of senior officials" after "in order to" and substitute with "fortify the prevention of civil servants at directorate level from taking up post-retirement employment that involves conflicts of interests with their previous service in the Government"; to delete "amend" after "the Government to immediately" and substitute with "tighten up"; to add "at directorate level" after "post-retirement employment of civil servants"; to delete "extending the present period of six months to two years the" after "(a)" and substitute with "imposing across the board a"; to delete "for officers retiring at the rank of Administrative Officer Staff Grade A1 or above, and to one year for other" after "sanitization period" and substitute with "of at least one year for"; to delete "(c) expanding the regulation of business or employment locations to cover mainland China and the Macao Special Administrative Region, in addition to Hong Kong"; to delete the original "(d)" and substitute with "(c)"; to delete the original "(e)" and substitute with "(d)"; to delete the original "(f)" and

substitute with "(e)"; to delete "Mr Joseph WONG Wing-ping, Secretary for the Civil Service, to apologize for the mishandling of" after "this Council also calls upon" and substitute with "the Civil Service Bureau to expeditiously complete the investigation into"; to add "and publish the relevant report" after "the incident of Ms Elaine CHUNG Lai-kok"; and to delete "amend" after "urges the Administration to" and substitute with "strictly enforce".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr TAM Yiu-chung to Mr CHEUNG Man-kwong's motion, be passed.

MR WONG KWOK-HING (in Cantonese): Madam President, one of the aims behind the establishment of a pension system in the Civil Service is to recognize the contribution made by civil servants to society. But a more profound aim is to nurture a clean and honest Civil Service with an attractive remuneration, hoping that the high-ranking public officers can enjoy a lucrative pay while being free from political interference. It is hoped that they can remain politically neutral, not tempted and corrupted by money, and that they will not do anything detrimental to public interest while in office and that the efficiency and cleanliness of the Government can be assured. The advantages of a pension system are that the civil servants can lead a comfortable retirement life and that public interest can be safeguarded.

However, since the alleged lobbying activities of Elaine CHUNG, former Deputy Director of Housing in the West Kowloon Cultural District project and TSANG Yam-pui, former Commissioner of Police, assumed the post of executive director in a private-sector company during his compensatory leave have caught public attention, the public is beginning to be concerned about the regulation of the post-retirement employment of senior officials, that it is too lax and loopholes may exist.

In Hong Kong, the grassroots have only a meagre income and they cannot possibly have enormous savings. For them, retirement would mean that they will have difficulty in leading a life. That is why they will continue working after they have retired or they may resort to getting Comprehensive Social Security Assistance (CSSA). They will have to work for as long as they live, and retirement is out of the question.

But senior officials will get a lucrative pension after their retirement and that is enviable. It is heard that TSANG Yam-pui, former Commissioner of Police, gets a handsome pension of \$180,000 a month, equal to three years' salary for a security guard.

Under the existing civil service retirement policy, a retired civil servant who wishes to take up employment two or three years after his retirement must obtain prior approval. The first six months after retirement is a prohibition period and as a general rule, no retired civil servant is allowed to take up any paid employment.

As a matter of fact, judging from the attractive pension which a civil servant receives upon retirement, even if he or she does not work for two or three years, his or her quality of life, or that of their family members will not be affected at all. If these retired senior officials want to find a new job, they do not have to hurry and they may wait for two or three years.

The Civil Service Bureau points out that the policy on the post-retirement employment of civil servants has been in force for many years and it is proven. However, it must be noted that this policy has to keep abreast with the rapid changes and developments of the times. The vetting and approval mechanism, in particular, must be stringently enforced to avoid arousing suspicions.

Mr Joseph WONG, Secretary for the Civil Service, said that the length of the sanitization period is of secondary importance, for what is more important is whether or not any conflict of interest is involved. I dare not say that this view is incorrect, but such a remark shows that the speaker lacks the wisdom to avoid arousing suspicions.

Madam President, we must ask a question. Why are the giant consortia so interested in recruiting retired senior officials by every possible means? I think this is due to the fact that they think retired senior officials have four residual values: First, they know the management secrets in the Government; second, their interpersonal relationship in the Civil Service, as many incumbent senior officials may be their protégés; third, they have an extensive social network, for they may have got some recommendation from some celebrities as a kind of reward or encouragement; and fourth, they may have personal clout.

In view of the above, strict monitoring by the Government on the post-retirement employment of senior officials in the private sector will serve to prevent the above four residual values from being traded in exchange for money offered by the giant consortia. This will undermine fair competition which underpins our business environment and damage public interest. Hence, senior officials who already enjoy an attractive pay package must exercise stringent self-discipline, and attach great importance to the commitment and responsibilities to society. As a gatekeeper the Civil Service Bureau must act in defence of the image of the Government and in the interest of the public. The Bureau must discharge its gate-keeping duty strictly, for if not, it would be a dereliction of duty.

Lastly, we should not expand the gravity of this issue indefinitely and lash out at the entire Civil Service. I am convinced that most retired civil servants are clean and uncorrupted, they exercise strict self-discipline and are committed to serving our society. Many civil servants while in employment and in retirement will engage in social services and voluntary work selflessly. Therefore, I have taken the initiative to propose in the Public Service Panel that a commendation system be set up. I hope the Civil Service Bureau can consider this and refer the proposal to the Panel for discussion. This system will serve to commend retired civil servants who have rendered good service to the community, hence giving a boost to positive acts while discouraging improper conduct. Ultimately it will rebuild a clean image for the Civil Service as servants of the people, rectify undesirable trends while also enhance the positive image of Hong Kong in the eyes of the world.

Madam President, I so submit.

MR HOWARD YOUNG (in Cantonese): Madam President, in recent years a number of senior officials were given approval to join private-sector organizations shortly after their retirement. This has aroused much public concern. The Liberal Party is of the view that there is really a need to tighten up and strictly enforce policies and measures on the post-retirement employment of civil servants.

Now directorate officers who wish to go into business or take up employment within two to three years after their retirement must seek the prior approval of the Advisory Committee on Post-retirement Employment. As a

general rule, a six-month sanitization period will be imposed. In many foreign countries, this sanitization period imposed on retired civil servants wishing to join private-sector organizations ranges from one year to five years. Obviously, the sanitization period as practised in Hong Kong is far too short.

Joseph WONG, Secretary for the Civil Service, said recently that the Government was considering lengthening the sanitization period for retired civil servants from six months now to one year. The Liberal Party agrees to this in principle because this will have the benefit of sanitizing retired senior officials, especially those who have taken part in the decision-making process, before they join a private-sector organization, avoid causing conflict of interest and serve to boost public confidence. However, for those civil servants from the professional grades and who have nothing to do with policy-making matters, such as architects, engineers, accountants, and so on, I think that the sanitization period applicable to them should not be lengthened. They need only observe the present requirement of undergoing a sanitization period of six months before they can take up employment under the condition that no conflict of interest is caused. They can then continue to give play to their professional expertise. Since the average life expectancy of Hong Kong people is 74 years for man and 80 years for woman, it would be unreasonable to require someone to retire at the age of 55 or 60 or limit their employment to voluntary work instead of permitting the person to pursue a second career.

With respect to the incident involving TSANG Yam-pui, former Commissioner of Police, though it was only after the six-month sanitization period was over that he joined a private-sector organization, the fact that he had accrued more than one year of leave led to the problem of double pay. My question is: When should the sanitization period start? The existing practice is to start from the day the retiree ceases active service. The Liberal Party is of the view that in order to be fair, the sanitization period should start from the date the retiree formally leaves the Civil Service, that is, when the leave is exhausted. This would avoid the problem of double pay. Moreover, the Government must not allow senior officials to accumulate too many leave days and the requirement which forbids the accumulation of more than one year of leave must be strictly enforced. As a matter of fact, private-sector organizations do not permit the accumulation of one year of leave days. For example, if an employee has 30 days of annual leave, the employer will at most permit that employees to

accumulate 30 days of leave. There will never be the case as with civil servants that one year of leave days can be accumulated.

There are also many inadequacies with the present system. The first is the vetting and approval system. Often vetting is very lenient and civil servants may join a private-sector organization immediately upon retirement. This gives people an impression that officials are covering up each other's shortcomings, and so vetting and approval must be done strictly.

Second, transparency is low. We agree that the basic information concerning the post-retirement employment of senior officials should be made public and that consideration should be given to expanding the regulation of business or employment locations to include places outside Hong Kong, and so on. However, we do not think an across-the-board approach should be taken with respect to the latter. It is because with respect to potential conflicts of interest, the possibilities for such are much lower in places outside Hong Kong than in Hong Kong itself.

As for the call raised in the original motion that Joseph WONG, Secretary for the Civil Service, should apologize for the mishandling of the Elaine CHUNG incident, the Liberal Party is of the view that as the matter is currently under investigation, we should wait until this is over and things are made clear before passing any judgement. At this stage, it would be improper to make any rash comments.

Lastly, I would like to talk about the regulation of post-departure employment of the Chief Executive and principal officials under the accountability system. The Liberal Party thinks that proper and effective monitoring is necessary to prevent any major conflicts of interest, but this should not be overly stringent. In the case of the Chief Executive, for example, he would value his own reputation and it is unlikely that he will make a rash decision to work for a private-sector organization.

In addition, principal officials under the accountability system are unlike civil servants in that they do not enjoy generous retirement protection. We cannot assume that future principal officials are all very rich people and so stringent restrictions imposed on their post-departure employment may deter many able persons from serving in the Government. This will not help the Government in governance.

In the United States, many politically appointed top officials come from the business sector and once they have left the government, they may return to the business sector after a short time. An example is Robert RUBIN. He used to work in an investment bank and in the CLINTON Administration he assumed the post of Secretary of the Treasury. Soon after he had left office in 1999, he joined the top management of the Citigroup. In the case of the United States, the system there places an emphasis not so much on the length of the sanitization period governing the post-departure employment of top officials but on imposing restrictions to prevent conflicts of interest. In other words, the Government will encourage retired senior officials to seek advice from officials in charge of ethical matters with respect to projects they have in their hands in order to avoid any conflict of interest. This is a practice from which we can draw reference.

Madam President, I so submit.

MS MARGARET NG (in Cantonese): Madam President, I speak in support of the motion moved by Mr CHEUNG Man-kwong and the amendment to be moved later by Mr TAM Yiu-chung.

Madam President, the speeches made by many Honourable colleagues today have actually said the things we want to say in the first place. Now I would like to highlight point (b) in Mr CHEUNG Man-kwong's motion, that is, on prohibiting directorate officers from taking up employment with private-sector organizations during their final leave. However, I would not talk specifically about double pay, but about double identity.

Madam President, on the 10th of last month I published an article in *Ming Pao* commenting on the controversy centred around the taking up of employment by TSANG Yam-pui, former Commissioner of Police, in a private-sector organization NWS Holdings Limited before he left the Civil Service formally. The question which many people ask is whether or not this is double benefit. On the one hand he gets paid by a private-sector organization some \$200,000 a month while on the other, he still gets a salary of \$180,000 from the Government. In fact, the problem does not lie in double benefit but in double identity. Madam President, we all know that one cannot serve two masters. As long as he is still a civil servant, he cannot serve a private master. The reason is clear and simple. As long as he gets paid by the Government, he is still a civil servant. It would be another matter if he has been paid the entire

pension at the time of his retirement and has formally left the Civil Service. But if he continues to get government pay, he is still a civil servant and he cannot take up another employment. This has nothing to do with whether or not the person concerned is formally discharging his duties. This same rule should apply to all regardless of rank and position. If the Commissioner of Police can do it, can civil servants of lower ranks do the same? For a clerk in the ordinary ranks, he cannot work in the Government during the day and work in another company in the evening when he is off government duty. If this is the case, he is doing outside work and moonlighting. Generally speaking, civil servants cannot take up another employment before they retire or during their final leave. This applies to the former Commissioner of Police. If the former Commissioner of Police is allowed to do this, then all the policemen, all the staff in the Leisure and Cultural Services Department and the Lands Department, and so on, should be allowed to engage in paid outside work.

After my article had been published, Secretary Joseph WONG wrote a letter in response. Despite its eloquence, the letter with its numerous paragraphs is not to the point at all. All it says from beginning to end is that a review will be conducted. On the question of paid outside work of civil servants during leave, Secretary Joseph WONG only says the following in effect: "Existing policy permits retired civil servants to commence work during their final leave subject to propriety of the employment in question". As to what in fact is "propriety", Secretary Joseph WONG fell short of explaining it at all. The question of propriety can only be gauged from the perspective of public interest or humanitarian grounds. For example, a retired senior official wishes to take up some international duties on behalf of Hong Kong, then he or she must assume office as soon as possible. These are special circumstances and public interest considerations are involved. But what are the circumstances related to TSANG Yam-pui? What is so special about them? Is he doing that for himself or in public interest? I have made an enquiry on this but got no reply at all. In the last paragraph of his letter, Secretary Joseph WONG seems to point out that as he has already said that a review would be conducted, and if I am so unhappy about it, the topic of employment during final leave will be included in the review as well. Madam President, it goes without saying that a review has to be conducted, but before that, he should first give a reply on why the circumstances surrounding TSANG Yam-pui are proper and based upon what standards they can be considered proper. If these standards are applicable to

the former Commissioner of Police, they can be applied to any single civil servant. The Government must treat everyone equal. Madam President, I am totally dissatisfied with the letter from Secretary Joseph WONG.

Madam President, it is a fact that a stable civil service framework is of vital importance to Hong Kong. On the one hand, the reputation of the civil servants is important, and on the other, civil servants should be given a clear idea as to what lies ahead of them. What should be their salary structure before retirement? How should appraisals be undertaken for promotion and other purposes? How should performance appraisals be undertaken? What should be done about post-retirement employment? All these must be clearly defined. Mr Howard YOUNG said earlier that the times now are such that no one can say that they will stop working after they have retired. Against this background, we need a clear set of principles and standards governing the post-retirement employment of civil servants. I think that the points raised by the two Members today can serve as a good start. Therefore, I would support the original motion and the amendment. Thank you, Madam President.

MS LI FUNG-YING (in Cantonese): Madam President, in recent years many directorate officers were permitted to join private-sector organizations after their retirement. This caused great repercussions in society. When these are coupled with allegations of collusion between business and the Government and transfers of benefit, an alarm has sounded for the clean image of the civil service team. This must not be overlooked. If integrity is lost in the Civil Service and if public confidence in the integrity of the Civil Service is lost, this would damage the image of the civil service team and Hong Kong society as a whole.

Before the reunification, the senior officials in the bureaucracy as practised in Hong Kong were mostly officials sent over here from Britain. They enjoyed a lucrative salary while in office and when they retired, they also had an attractive pension. After the reunification, the SAR Government has been following this system generally. But there is one fundamental difference for before the reunification, senior officials from Britain who came to Hong Kong would in most cases return home and sever all ties with Hong Kong when

they retire. After the reunification, the senior officials in Hong Kong still maintain an intricate relationship with the community after they have retired. As a result, certain problems which used to go unnoticed or not contentious have cropped up because the situation has changed. If these are not properly addressed, they would become major problems.

In my opinion, from the reunification to the present day, the SAR Government has not properly addressed the problems related to the retirement of directorate officers. Currently there is no lack of mechanisms governing the post-retirement employment of directorate officers. For example, officers retiring at the rank of Administrative Officer Staff Grade A1 are required to seek prior permission for taking up employment within three years from their retirement. Another example is the six-month sanitization period imposed on post-retirement employment of directorate officers. But why do problems still emerge so frequently? Directorate civil servants in the count-down to retirement can expect to have an opening reserved for them in the private sector. They may even go to work there during their final leave. A former Commissioner of Police can take up a security job. A Director of Housing can join the property sector after retirement. No attempt is made among these directorate civil servants to avoid arousing suspicions. What happens is that these cases of senior officials joining private-sector organizations soon after their retirement are constantly on the rise. This is a major reason why the Government has lost so much of its prestige and credibility.

In the debate on the policy address last week, I put forward the idea that directorate civil servants should consider their career in the Civil Service a lifelong career. This is the best way to ensure public confidence in the integrity and cleanliness of the Civil Service. About the point raised by the Secretary for the Civil Service, that a review of the policy should include a concern for the right to post-retirement employment of the civil servants, I have reservations. I would like to emphasize here that it is not that I do not care about the right to post-retirement employment of civil servants. I have no objection to such a right of the non-directorate civil servants. As mentioned in the policy agenda, the Government is undertaking a review of the policy on the post-retirement employment of civil servants to ensure that such a policy will maintain public confidence in the integrity and cleanliness of the Civil Service. I think that this view is not correct and the review currently being undertaken based on this view

is therefore not proper. The widespread concern expressed for the post-retirement employment of civil servants is not about civil servants in general but about the 1 000-odd directorate officers who hold very sensitive positions. As put in the policy agenda, the problem has not been given a proper focus. It is not tackled. It has been watered down as the entire team of 160 000-plus civil servants are dragged into it.

I think that the review should take into account the unique situation of Hong Kong, that despite it being a tiny place, commercial activities here extend to all corners of the world and economic ties with the Mainland are closer than ever. It is only through strict regulation of the post-retirement employment of directorate officers that public confidence in the Civil Service can be ensured. Such a review should have a direction and, that is, the career of directorate officers should be seen as a lifelong career. The review should also look into the aims of establishing the pension system and whether or not the existing pension system has achieved such aims and what is the relationship between this direction and the provisions in the Basic Law on civil servants.

I agree that directorate officers are cream of society and it would be an unfortunate thing if they cannot continue to make their contribution to society after retirement. However, directorate officers who want to serve the community after retirement can choose to do so without necessarily joining a private-sector organization. A more important consideration is how we weigh the impact of this so-called waste of talents against building public confidence in the integrity and cleanliness of the Civil Service.

Madam President, both the original motion and the amendment do not accord fully with my view on this subject. Having said that, I would not oppose any suggestion to boost the integrity and cleanliness of the Civil Service. Apart from the post-retirement employment of civil servants, the post-departure employment of the Chief Executive and the principal officials under the accountability system should also be considered. Though the latter issue has not yet led to extensive discussions in society, it does not mean that the issue does not exist. If it is not addressed soon, the damage to be done to Hong Kong would be huge if anything goes wrong.

Madam President, I so submit.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, the senior officials of the SAR Government are undoubtedly the cream of society. When they have left the Civil Service, if they can continue to render their service to society, it would of course be a good thing and beneficial to the development of our society. However, when some of these directorate officers who have left the Civil Service join private-sector organizations, they would only fuel public suspicions. The recent incident of Elaine CHUNG has once again aroused strong public concern for the post-retirement employment of civil servants.

Elaine CHUNG, former Deputy Director of Housing, has joined the Hong Kong Ferry (Holdings) Company Limited (HKF) after retirement. But Ms CHUNG has not been doing anything for HKF. She becomes a consultant to Henderson Land Development Company Limited (Henderson Land), the parent company of HKF, in its West Kowloon Cultural District (WKCD) project. Ostensibly, her work would include the field of cultural activities, but in actual fact it is not sure whether or not she is involved in the real estate projects which she had come across in her office before retirement. It is likely that the issue of whether or not any conflict of interest is involved would be another case where truth may never be known.

Apart from this Elaine CHUNG saga which has been in the limelight recently, there are still quite a number of cases where public concern is aroused for senior officials who have joined private-sector organizations upon retirement. These include Mr TSANG Yam-pui, former Commissioner of Police, who went to work in the New World group right after his retirement. As a former Commissioner of Police, he has of course been privy to a lot of confidential and sensitive information. The fact that he joins the private sector at such a short time after his retirement would naturally induce thoughts of conflict of interest and transfer of benefit in the mind of many people.

When the public expresses concern for retired senior officials joining the private sector, it does not mean that the public wants to deter these retired senior officials from making good use of their experience and abilities to make money. What the public worries about is that these retired officials would make use of the social links and influence they have formed during their service in the Government to gain special advantages, hence affecting equity in the market and public interest.

Madam President, when civil servants retire, they are entitled to a lump sum and monthly payment of pension. Therefore, there would not be any need for them to work to make a living. If these retired civil servants wish to serve the community, they may do voluntary work or serve in the advisory bodies, instead of being employed with a private-sector organization. If they insist on taking up employment with private-sector organizations, then they must come under a stringent and comprehensive vetting and approval mechanism.

Current monitoring of the post-retirement employment of civil servants with private-sector organizations is not stringent enough. For if not, there will be no incidents involving retired senior officials like Elaine CHUNG, TSANG Yam-pui, and so on. What the authorities should do, therefore, is to go in the direction of "identifying inadequacies" as taken by the Chief Executive and conduct a full-scale review.

At present, the sanitization period for retired civil servants who wish to work in private-sector organizations is only six months. This is obviously not long enough. The original purpose of a sanitization period is to minimize the improper advantage which a retired civil servant may bring to his private-sector employer through the confidential or sensitive information collected by virtue of his former service. However, the existing length of a sanitization period is not effective at all. For a government policy to proceed from its initial proposal, consultation, revision to its final implementation, it would need three to four years, and so six months would only see it in the consultation stage and not much progress will have been made. If the sanitization period is only six months, the information in the hands of the retired officials would still be the latest confidential information in the Government, then will this six-month control period not be useless? That is why Mr CHEUNG Man-kwong's proposal to extend the present sanitization period for officers retiring at the rank of Administrative Officer A1 or above from six months to two years and to one year for other directorate officers can really serve to minimize the impact caused by the sensitive information at the disposal of these officers. Thus it will help dispel some of the doubts of the public.

Madam President, I doubt very much the work done by the Advisory Committee on Post-retirement Employment. For in the past, though the Committee had received applications for post-retirement employment from dozens of senior officials, only one was turned down. For most other applications, an approval was readily given. Facts show that some of those

applications, like the one from Elaine CHUNG, should have been scrutinized by the Committee with great care. Has the Committee not been doing its work dutifully or does it often give face to the applicants and does not vet their applications rigorously? Or is it because the vetting and approval procedures are themselves at fault? If we cannot solve these problems, how can we expect the Committee to exercise its gate-keeping functions?

Mr CHEUNG Man-kwong proposes expanding the regulation of business or employment locations to cover mainland China and Macao. This is a desirable suggestion. As Hong Kong is an international metropolis, business activities from all over the world may involve the interests of the Hong Kong Government and the public. Should we therefore not consider expanding the regulation of such locations to cover more places such as Britain and the United States?

It would be much more important to enhance the monitoring of the nature of work or the changes in such nature as applied to retired civil servants working in private-sector organizations than giving approval to them to work in private-sector organizations. If the Government is sloppy in this kind of monitoring, then retired civil servants can join private-sector organizations as a matter of course, thinking that they are beyond the reach of the short arm of the law.

Lastly, the authorities say that the investigation into the Elaine CHUNG affair would complete as soon as possible; by then, the people to be blamed will be held accountable, the loopholes will be plugged, the monitoring work would be stepped up and recommendations will be made. I think the officials concerned should come forward to make an explanation, respond to public queries and pacify the disgruntled public. I so submit. Thank you, Madam President.

MR CHIM PUI-CHUNG (in Cantonese): Madam President, we often hear voices in the community, especially the Government, saying that civil servants are one of the most important assets of Hong Kong. I do not oppose this view in principle. This is because the fact is the public has been paying taxes year after year so that these civil servants can climb all the way from the bottom to become the cream of society.

As the retirement age as stipulated in the present system is too young, that is why some civil servants will have to retire at the age of 50 or not later than 60. In such circumstances, it is only natural that they will succumb to the temptation of cool cash because, apart from their abilities, they also have extensive social links and access to government information. Hong Kong is an industrial society and more so it is a utilitarian society. The giant consortia will therefore covet civil servants who have such invaluable assets. That is why they are often eagerly hired. This is never their fault. It is only the system in society that is to be blamed.

We should know that the establishment of the accountability system means that the principal officials working under it are bound to pay a cost. They cannot enjoy the treatment that they used to when they were civil servants. With the completion of their term of office, that will mean a loss of all their pension. However, we must bear in mind that for any Director of Bureau, if he is of the view that his abilities outclass his colleagues, he can say that he ranks number five in the Government. Even if he thinks he ranks last among the Directors of Bureaux, he would still rank the 15th in the Government. Such a lofty position is higher than a lot of other civil servants and members of the public. A more important thing is that they should have a sense of mission. They are proud to serve the some 6 million to 7 million people in Hong Kong and even the 1.3 billion people in China from a macro point of view. This is glory of another kind. Of course, in terms of salary, they may get a few million dollars a year. But in terms of prospects, they have a very rosy future indeed. That of course, will also depend on what post they take up under the accountability system.

Let us look back. Many officials after their retirement get pension from the Government on the one hand but take up an offer from the consortia immediately on the other. Some of these senior officials even say to the effect that the salary is not that much and if that is tailor-made for them, they may get an even higher salary. Such remarks have really pricked the sides of Hong Kong people. Why? For these senior officials can enjoy such a good life only because the people of Hong Kong have given them a chance to climb to the top, though these officials have also paid a price. This shows an unbalanced development in society. Madam President, as I have just said, we should know that these people can have a feeling of superiority because they can be civil servants. Such a feeling cannot be entirely attributed to the treatment they receive or the money they can make.

All right, let bygones be bygones. The most important task ahead is the review. In the past there were laws, but they might not be sufficient and they might have grey areas. Civil servants should not make use of these grey areas to advance their personal interest and rights. For me I would look forward to and care more about the future review. It is understandable that divergent views will arise in the review. I also think that senior officials, especially those holding top positions, should be subject to a sanitization period of not only two years but an even longer period. It is because they are already in a much better position than the ordinary people or those holding high positions in terms of the pension they receive or the other kinds of treatment they get from the Government. What is more, the Government has made things clear to them well in advance and since they are willing to assume such offices, they should know very well what will happen in future.

Furthermore, if these officials really want to contribute their service to the business sector, I think it would be most proper if the government pension or other kinds of allowances be discontinued until their employment in the business sector is over. It is only in this way that they can meet public demand. We must bear in mind and these civil servants must know as well, that they must really see themselves as servants of the people. They must not think that they are officials over and above the people. It is only natural that they will come under criticisms from the public because they receive such treatment and they enjoy such a position. We must bear in mind as well that as a general rule, an ordinary civil servant enjoys better pay and benefits than members of the public. Therefore, Madam President, I hope the Government will conduct such reviews frequently.

MS EMILY LAU (in Cantonese): Madam President, I speak in support of the motion moved by Mr CHEUNG Man-kwong. In his motion, Mr CHEUNG points out that the reason why he is saying these things is he is responding to the call made by the Chief Executive in his policy address to act "resolutely against collusion between business and the Government to eliminate any transfer of benefits". Mr CHEUNG says there ought to be policy revisions. Madam President, later on I will move a motion. As a matter of fact, originally I wished to raise the problem of the post-retirement employment of civil servants with private-sector organizations. But the Clerk suggested withdrawing this proposal because Mr CHEUNG Man-kwong would propose a motion on it. I agreed because both Mr CHEUNG's motion and mine are proposed in response

to or with the call made by the Chief Executive TUNG Chee-hwa in mind. TUNG calls for resolute action against collusion between business and the Government to eliminate any transfer of benefits.

Last week when a debate was held on the policy address of the Chief Executive, many Members talked about these two issues because the Chief Executive has mentioned them. The Chief Secretary for Administration said at that time that he understood Members' views. He said that these acts of collusion or transfer of benefits might not be confined to those acts of bribery which are criminal offences. He said that one of this kind of acts was to make a deliberate move to give the green light in the course of decision-making. This meant that the decision would be made in favour of a giant consortium or that a decision is especially lenient to it. All these are to pave the way for the official's future career in the business sector. Of course, the Chief Secretary would not admit that this was the reality and he said that he only had worries. But I believe he has highlighted the essence of the problem.

Madam President, after listening to the debate today so far, I have a feeling that this is already a big help to Secretary Joseph WONG. For in this Council, regardless of which political party or group you belong, there is a consensus for this matter. That is why no sparks have been ignited in this debate. But there is an all-pervading sadness. We are sad because these things have happened notwithstanding the huge amount of money we have spent. Just as Mr TAM Yiu-chung has said, and I am very much in agreement with him, the retirement benefits of our civil servants rank among the best in the world. During the debate last time, Mr KWONG Chi-kin said that civil servants were paid better than those working in private-sector organizations. I have often said in the panel meetings that the people of Hong Kong have never treated civil servants badly. Even though there have been some changes in recent years, generally speaking and as Members from different political affiliations have said today, the salary of civil servants is still on the high side. The Liberal Party even says that civil servants are paid excessively high. As Mr WONG Kwok-hing explains, the high salary is meant to foster integrity in the Civil Service. It has never been our intention to give a high salary to civil servants only to know that they will look for jobs with a higher salary when they retire. That is why the Elaine CHUNG affair and the TSANG Yam-pui affair have really pinched the nerves of Hong Kong people.

I agree very much with Ms LI Fung-ying when she said that in the days of colonial rule, many expatriate officers would return to their home country upon retirement and the work they did over there would not matter to the Hong Kong people. Of these expatriates, only very few of them have chosen to stay in Hong Kong. Some are still working, but the people are not quite happy about it. But now these civil servants are locals, so where can they go when they retire? Madam President, some of these civil servants know to act in restraint and modesty, but some others are boasting and putting on a cocky air. The people are simply offended. That is why we have this motion debate today. I very much support many of the recommendations made in the motion, especially on final leave. Currently such kind of leave can be as long as one year. I have no idea how they can accumulate such a long leave for it is not possible in many private-sector organizations. Even in my own office, when the colleagues have worked overtime, I would not encash their overtime work but I would let them accumulate their overtime working hours for the purpose of taking a leave. But this arrangement is only valid for half a year, if they do not take any leave during the period, the right to leave will be forfeited. This is why I fail to see why civil servants can accumulate their leave for one or two years. How can this happen?

I agree with what Mr Howard YOUNG has said, that sanitization should begin only after the leave is exhausted as this will prevent the problem of double identity as Ms Margaret NG has mentioned from arising. I think this is really an embarrassing thing, though not to the person being paid two salaries. He can be paid some \$300,000 to \$400,000 a month. Since he is already getting some \$100,000 in pension, will he be in such a financially stringent position? This is a question I really want to ask these retired senior officials on behalf of the public. This is plain truth that the people have been so nice to these senior officials and it is only right that they should pay back the public.

On private-sector organizations, there is one point I wish to make which is not mentioned in the motion. Often times some kind of quasi-government organizations will tailor-make some positions for these retiring senior officials. Some Honourable colleagues say, these retiring senior officials may well ask: The tailor-made clothing does not fit me, it is too tight. How can I put it on? What they mean is that a job of some \$3 million to \$4 million a year is too tight and they can only take up jobs with a lavish pay of \$8 million to \$9 million a year like the one Joseph YAM holds. Remarks like these are piercing to the ear, in the same way as when someone said that the toilets in the flats of Hunghom

Peninsula are too small and people cannot squeeze through. The Secretary should have heard these views from the public loud and clear and he is obliged to respond. I am sure colleagues of the Secretary may not be so happy to hear all these. But they must listen more to the voice of the people as conveyed by Members who are representatives of public opinion.

As for the cases of retiring Chief Executive or principal officials under the accountability system, these must be handled expeditiously. In the outstanding items on the agenda of the Panel on Constitutional Affairs, there is such an item on the retirement of Chief Executive. We have been talking about this issue for three or four years. Things have gone overboard, for a number of principal officials have left — Antony LEUNG, Regina IP, and YEOH Eng-kiang. It is lucky that nothing has happened because they have not taken up any employment. But some other retired officials may really take up a job and if the public feels offended, then controversies will arise. I agree very much with what Ms LI Fung-ying said, that while other people are talking about retired senior officials, what Secretary Joseph WONG says is about all civil servants. For those civil servants at the lower grades, as they are not paid so handsomely, we are not so much concerned. These people may actually need to take up some employment, but the public bears no grudges against them. So what we should do is to narrow down the scope to the some 1 000 directorate civil servants and see what can be done. There may be some legal problems and I hope the Secretary can look into them in detail. It is more so my hope that the Secretary can do something to reflect the wishes of this Council clearly and draw up a regulatory regime at the soonest. We cannot afford to see another scandal about these senior officials, for each and every time this happens, the people of Hong Kong will feel so disgraced.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, the retired former Secretary for Commerce and Industry, Mr CHAU Tak-hay, once described the post-retirement employment system as practised in Hong Kong as the strictest in the world. He pointed out that a permanent under-secretary of state in the British Government may work in the private sector immediately upon retirement; in the United States, once a cabinet minister has left office, the only restriction imposed on him is that he is not allowed to lobby the department he used to serve and that is all. He queried why Hong Kong had to be that strict. He was of the view that the people of Hong Kong lacked the breadth of mind and vision to accept these matters and Members were boiling a storm in a teacup.

Are Members of this Council really raising much ado about nothing? Is the post-retirement employment system for civil servants in Hong Kong much too strict? Madam President, I think these issues are worth discussing.

The first issue. Recently, there have been heated discussions in the community on collusion between business and the Government. The motion debate to be moved by Ms Emily LAU later on will also be on this topic. Why has collusion between business and the Government become the talk of the town all of a sudden? I do not think this is because Mr TUNG has said in his policy address that he is resolutely against collusion between business and the Government that the issue has come to the spotlight. It is because the performance of some civil servants who make up the largest component of the Government in the past has fuelled public suspicions of collusion between business and the Government and a transfer of benefits.

The question of senior civil servants taking up top posts in the private-sector is not a matter of their personal choice but the image of the Government. Further implications are the adverse impact this creates on the mutual trust between the people and the Government and even on the effectiveness of governance. The people will not just question the personal integrity of former senior officials like Elaine CHUNG and TSANG Yam-pui but whether or not the policies they formulated while in office had favoured any individuals or consortia. This is the greatest doubt they cast. We expect that officials who enforce or implement government policies to be neutral. If this is not the case, we will feel very much concerned when the Government wants to implement a certain policy. The people will ask whether or not government policies are fair and impartial. For if not, the level playing field which the Government wants to foster will be open to question. Investors from abroad will lose their confidence. The Government has always been saying that it will revitalize the local economy, but would it be destroying the economy with its own hands? So I do not think it is a case of the description offered by CHAU Tak-hay, that we are just making much ado about nothing. We must face up to the problems seriously.

To compare the system in Hong Kong with that in foreign countries is totally meaningless for we do not have the most important monitoring system in places like Britain and the United States, and that is, democracy.

In the Elaine CHUNG affair, there is convincing proof that she has taken part in the promotional activities of a company which is a subsidiary of

Henderson Land Development Company Limited in association with Henderson Land's bid for the West Kowloon Cultural District project. She also lobbied Kwai Tsing District Council members for support in respect of an application from Henderson Land for change in land use for a shipyard in Tsing Yi. Although I did not attend that meeting, I have asked my colleagues who were present. I was told that Elaine CHUNG did speak in the meeting and briefed members on the application for change in land use. This is irrefutable proof. The Secretary may release findings of an investigation into these allegations later, but what would happen even if these allegations are substantiated? Elaine CHUNG can continue with her work. The Secretary will remain the Secretary. He will not step down because of this incident, because the Legislative Council which is a so-called monitoring body is no more than a toothless tiger. I may have made a few criticisms here, but the Secretary can stay in his office with no harm done. So if we want to make a comparison with the foreign countries, we must not look at the surface but deep into it. We will find out that because we are in lack of a democratic system, there can be no effective monitoring of the Government.

As such it is basically pointless to compare the system here with that overseas when things are detached from the reality. Some people may ask, are we going to impose a total ban on retired officials joining private-sector organizations? Would this be an infringement of their personal rights?

In the face of these queries, we must know in the first place what we want to prevent by imposing this restriction on the post-retirement employment of officials. I think that this involves two things. First, it is meant to prevent the use of information collected and social links established by these retired officials during their service in the Government to the benefit of the private-sector organizations and hence create an unfair advantage over other competitors. Second, it is intended to prevent officials from paving the way for their retirement in that while serving in the Government they will favour any particular consortia or individuals.

Actually, the existing sanitization period can at most prevent the first problem from arising. For the second one, it would be useless even if a 10-year sanitization period is imposed. This is especially true when, in the ethical world of the Chinese, a favour received must be returned. It would be very difficult to stem out this practice. Recently, some people brought up the case of Discovery Bay and queried whether or not Sir David AKERS-JONES has gained

any advantage when he pretended he did not see in the Hong Kong Resort Company Limited case, such as taking up the post of an independent executive director of the company some 10 years later. Cases like these cannot be prevented from happening by resorting to a sanitization period, unless such control period is for life.

We know that retirees must not be deprived of the right to employment. So the only solution is to impose restrictions in two respects. The first thing is to step up long-term monitoring and the penalty system. Now directorate civil servants and ordinary civil servants may take up employment in any private-sector organization three years and two years respectively after their retirement without having to come under any monitoring. We think that a longer monitoring period should be imposed on the post-retirement employment of directorate civil servants with private-sector organizations. Efforts should be made to find out whether or not there is any conflict of interest between their present job and their former service in the Government. Persons in breach of such rules and regulations should be punished.

In addition, we know that there are difficulties in trying to eradicate the above problems by way of the institutions. The best solution lies in self-discipline exercised by the officials themselves. They should know that apart from complying with institutional requirements, they should adhere to a code of professional ethics before they can gain respect from the public and avoid giving the SAR Government worries and trouble.

Madam President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, as the economy of Hong Kong picks up, there are reports in the local papers that some companies are raising the salaries of their employees and have plans to hire more staff. If the economy keeps on growing for the better, it is expected that these companies will find it hard to hire persons of high calibre to enhance their competitive edge. As we know, the Civil Service is an excellent team. This applies especially to directorate officers. It therefore comes as no surprise that when these officers have left the Civil Service, they will be eagerly sought after by private-sector organizations. The problem is how we can ensure that their employment in these private-sector organizations will not cause any conflict of interest in connection with their previous service in the Government. This should be the focus of our attention.

If the Government wants to prevent any conflict of interest caused by the post-retirement employment of senior officials and civil servants in private-sector organizations, the Government must tackle the problem by looking into the vetting and approval procedures. The Government should vet these applications concerned with great care, instead of trying to find remedies when problems have appeared due to insufficient monitoring after approval is given. Trying to find remedies when problems have surfaced will not only lead to wastage of resources but also undermine the prestige of the Government in governance. As to whether or not the Government should monitor closely the applications approved, the answer is definitely yes. But as to whether or not information of the private-sector organizations concerned should be made public, the Government should give serious thoughts to the suggestion as this may touch on commercial secrets and hence run counter to the philosophy of free economy.

In fact, many directorate officers hold professional qualifications and they have rich expertise and skills. Under the existing system, if they reach retirement age, then they must retire from service. For these professionals in the Civil Service, they are seldom involved in formulating policies or any major decision to allocate resources while in service. That is why their post-retirement employment restrictions should be less stringent than those applicable to senior officials at the rank of head of department or above. This will allow them to make use of their professional knowledge and skills to serve the community. It is also the best way to put talents to their best use.

Madam President, I so submit.

DR KWOK KA-KI (in Cantonese): Madam President, the motion we have today is quite meaningful. Now Mr CHIM Pui-chung is not here, actually, I would like him to listen to a few words from me. Mr CHIM seems to have said that the motion has been raised to stir trouble or that it makes much ado about nothing. However, upon a closer look, even the policy address of the Chief Executive has also mentioned these points. He made it a point to say that he does not want to see any transfer of benefits or collusion between business and the Government. If the credibility of the Government has come to such a stage and yet the problem is not faced squarely, then we are pushing its prestige closer to the verge of bankruptcy. It is precisely with the aim of maintaining the Government's prestige and in the hope that senior officials will not be seen as a

pest and menace when they retire from service that we have raised this topic for discussion today.

The civil service system in Hong Kong follows the tradition of the British civil service and it has very strict rules. As many Honourable colleagues have said, in the past not many civil servants would want to find a job after retirement. The lucrative pension and benefits are meant to serve one purpose and, that is, to encourage civil servants to be diligent and dutiful and to keep them away from any transfer of benefits while they are in service.

After the reunification, some of the retired senior officials — I do not mean all civil servants and I still miss a few of these senior officials and Members have mentioned their names — took up voluntary work and some of them became hosts of radio programmes without getting any pay. They give the public an impression that they are clean and upright. On the contrary, many senior officials work for business tycoons and land developers, not caring about raised eyebrows from the public. This kind of things are shattering the confidence other people have in the entire SAR Government, the civil servants and the Hong Kong people as a whole.

I think that most of the more than 100 000 civil servants are clean and upright. Most of the senior officials have integrity and they are trustworthy. A bad thing is there is a handful of black sheep who take part in commercial activities intentionally after retirement, caring nothing about public suspicions they have induced.

Joseph WONG, Secretary for the Civil Service, has said on many occasions that he does not owe the public an apology, nor should he be held accountable. That is pure nonsense. As a Director of Bureau, the thing that he should do or is expected to do is to maintain such a good system and prevent people from making use of it to damage the civil service system. The approach he has taken, that is, not caring about retired senior officials taking part in commercial activities, is precisely doing damage to the civil service system. Many people, even some senior officials, have said to us that this is improper and they are surprised to find these people doing that. Some serving senior officials are of the view that their former colleagues should not be doing that. It is surprising to find the Secretary, despite his role as the defender of the civil service system, would think that there is no impropriety in all this.

Dr Raymond HO has talked just now about the post-retirement employment of other civil servants, including those from some professional grades. Before I came to this meeting, some civil servants from professional grades and some senior officers had asked me not to vote in favour of the motion because the work done by people like engineers and medical doctors will not lead to any disputes. A retired medical doctor who practises medicine would in most cases not involve any commercial interest.

However, I do not think I can oppose this motion today. Why? It is because the Secretary has destroyed the Civil Service with his own hands. That is why we cannot help but impose stringent restrictions to guard against impropriety. If the Civil Service is problem free and if the Secretary is doing a good job and does not condone and connive so many retired senior officials in doing these things, there will be no motion on this topic today. Things will go well. No one will move this motion. Even if Mr CHEUNG Man-kwong moves a motion, no one will second it. Mr TAM Yiu-chung may not agree with everything found in Mr CHEUNG Man-kwong's motion, that is why he has made some amendments. But in Mr TAM's speech, he concludes that this is a big problem and it is doing damage to the SAR Government. It can be seen therefore that people from all parties or background agree that something has gone wrong in the Civil Service. But why does the Secretary still think that he does not have to shoulder any responsibilities?

We hope that the Civil Service can sustain and that we can have a team of civil servants with integrity and can serve as role models for civil servants in our neighbouring places, including the Mainland. However, judging from what has happened, if no change is made in the next few years, not only will our Civil Service fail to serve as a role model, it will also be relegated into an international laughing stock. People may say such things as: Never try to be like the senior officials in Hong Kong who scheme and conspire in the hope of hitting a fortune when they retire; and Hong Kong officials who used to be in charge of real estate projects or policies can be hired by land developers and take charge of the West Kowloon project when they retire.

Why has our bureaucracy disintegrated after 1997? What is currently done is destroying the stability in the Civil Service. It keeps many people off. People do not want to be civil servants and they do not want to have anything to do with this system. They do not want to do anything to spoil their reputation. They do not want to be accused of any impropriety, or work for the sake of

money and have any transfer of benefits. It is precisely because of this policy that may deter many people from joining the Civil Service.

I do not know if this is a policy of the Chief Executive but many senior officials, including Ms Elaine CHUNG whom we mention so often, are doing this for their career advancement. As I see it, the SAR Government now is like the cruise Titanic and the Secretary is the iceberg which the ship is crashing head on. Now this ship is sinking. If nothing is done to repair and mend it, the SAR Government will sink in no time like the ship.

I do not want to support too many motions which aim at regulating civil servants with integrity and an upright character and prevent them from making use of their expertise after retirement. But as things have gone to such a deplorable state, I cannot help but agree with some Honourable colleagues and tighten the policy grip on some retired civil servants, especially those who used to be involved in policy formulation. This will prevent them from engaging in any transfer of benefits and hence sabotaging our civil service system.

I so submit.

MR ALBERT CHENG (in Cantonese): Madam President, summing up the speeches made by many Members, a few points can be deduced. We agree that Hong Kong does possess a highly efficient Civil Service and it has gained great acclaim from all quarters. We agree that the remuneration of civil servants is on the high side and it has served the purpose of preventing corruption. However, it is important to have a sound system and for the person who enforces such a system, it is only natural that we would have greater expectations.

Unfortunately, Mr Joseph WONG, Secretary for the Civil Service, is the first person who has destroyed this system. How has he destroyed it? When the SAR Government wanted to launch the accountability system, according to explanation given by the Government to this Council at that time, the post of the Secretary for the Civil Service should be taken by a civil servant. Why should a civil servant be chosen and why should the appointee retain his identity as a civil servant? This is because he can enforce policies related to the Civil Service with a neutral stand and he does not have to come under any political pressure. This will hopefully make the vast number of the civil service team put their trust in him. As the head in charge of personnel matters in the 160 000-strong or

more Civil Service, he can therefore be impartial in enforcing out civil service policies. Unfortunately, Mr Joseph WONG chose to retire at a time when he was about to reach retirement age and he was paid the lump sum part of his pension. Afterwards, he is paid the salary of a Director of Bureau and may be even the monthly payments of his pension as well. In so doing he has completely destroyed the civil service system.

As Mr Joseph WONG has chosen to leave the Civil Service, he should not have returned to it. Though he is the Secretary for the Civil Service, the civil servants have no confidence in his neutrality. Since the system is in itself unsound, it would be tempting for retired officers to break the rules when they see the official who is in charge of the Civil Service doing improper things.

The most important thing is that we should have a sound system that will foster cleanliness with high salaries. When a directorate civil servant retires, the pension paid in lump sum would be at least a few million dollars and then the person is paid a pension of some tens of thousand dollars to close to \$100,000 a month. This will ensure the retired civil servant can lead a reasonably comfortable life, though not one of extravagance. Of course, such a life is unlike that of the rich and famous, or some party chairman who may consume a bottle of wine costing over \$10,000. These people are used to such extravagance and they would have a difficult time if they cannot drink such costly wine after retirement. Having said that, the difference might not be so marked as one will become drunk after several glasses.

As a matter of fact, we do have a very good system. For example, when Mr BARMA, Chairman of the Public Service Commission, assumed that office when he had retired, he was not entitled to any pension payment. I do not know why when the accountability system was launched, the Directors of Bureau might be paid two salaries when they retired, that is, they would first get a sum of over \$10 million and then get a monthly payment of some \$80,000 to \$100,000, on top of the pay as a Director of Bureau, that is, some \$300,000 to \$400,000 a month. They are being improper in the first place. A pension should by its very name mean a sum of money which will enable someone to lead a life after retirement or enable the person to do some voluntary work to serve the community.

In my opinion, what should be improved in the system is that when directorate civil servants — they are the targets of the motion — want to work

after they have retired, they should not be paid any pension, unless the job they have taken up is paid at a sum less than the pension. They may then take the difference, whichever is higher or lower, depending on how things are worked out. If the existing system is not changed, retired civil servants will be subject to great temptation to find a job.

In addition, consideration may be given to raising the age of retirement. This is because people these days live longer and when some civil servants retire, they are still at the prime of their life. It would be a waste if they are not permitted to work. However, they really do not need that much money to get by. In my opinion, people who choose to become civil servants do have a sense of mission. They want to serve the community and not for making money, otherwise they will not become civil servants. Since civil servants are paid a large sum of money when they retire and they are paid a monthly pension which is more than enough for them to get by, then if they still work, the monthly pension payment should be deducted. In this way, the public will show more respect for civil servants and they will be willing to support the civil service system which pays civil servants well to make them free from corruption.

I hope that the motion today can be passed and that restrictions can be imposed on civil servants governing their post-retirement employment in private-sector organizations. In addition, I think that there should be some amendments to the payment of pension. Unfortunately, the Legislative Council does not permit private Members' bills, otherwise I would not mind drafting a private Members' bill. After this motion is passed, I hope the Secretary for the Civil Service can consider the following: First, it is time for him to retire; second, he should make some real improvements to the retirement system so that the public can have more confidence in a civil service system which pays civil servants well to maintain their integrity and that the public can show more support and respect to civil servants.

With these remarks, I support the original motion moved by Mr CHEUNG Man-kwong and the amendment moved by Mr TAM Yiu-chung. Thank you, Madam President.

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

MR ALBERT CHAN (in Cantonese): Madam President, many years ago when I had graduated from university, I thought about becoming a civil servant. Then I knew my personality would not fit for the job and so I did not apply for it. That could be a misfortune for the Government, for if I had become a civil servant, I might enforce government policies to the letter, stand up and confront Members here and I might even gain some face for the Government and TUNG Chee-hwa.

According to traditional Chinese thinking, to be a civil servant is like becoming a government official. When we were at school, we read about the moral fibre of government officials like YUE Fei or many other characters from historical novels. There is a universal emphasis that members of the literati should have this moral fibre. The secondary school textbooks tell us that TAO Yuanming would not bend his back to get a favour of five *dou* (decalitre) of rice from someone. So in this way we have formed some impression and expectation for officials. But as we look around now, of course, I must admit that there are many civil servants who do not lack this moral fibre and they should be commended, but there are some civil servants who make advances to these giant consortia even before they leave the service. They may be doing this to pave the way to an even better future after their retirement. There are people who are heads of departments but after they have left the Civil Service, they have become the right-hand men of giant consortia. Such people and such dramatic changes they have gone through are posing a great harm to the Civil Service. They have dealt a great blow to the dignity of the civil servants as well.

I recall a while ago a senior official joined a giant consortium after retirement. I know some executive directors of that company and I have had a chance to talk to them. In our conversation, I came to know that this senior official was frequently scolded by the big boss who shouted at him without giving him any face. When a top official who used to head tens of thousand people and even close to 100 000 people has to pander his self-dignity for a few million dollars of salary after retirement and swallow the disgrace of being shouted and screamed at, I am really sorry for the person's pitiful downfall. It remains, of course, that one can say nothing when scolded as one is paid. Therefore, that top official later resigned and left that private-sector organization for good.

Some Members have mentioned the retirement arrangements for civil servants. I wish to point out some facts concerning pension payments received

by senior officials. Elaine CHUNG got a lump sum payment of some \$4 million and later on she gets some \$70,000 a month. TSANG Yam-pui got a lump sum payment of \$10.6 million and gets \$63,000 a month. Compared with the mean household income in Hong Kong, their income is two to three times the mean household income and this is sufficient for them to lead a reasonable retirement life. I believe the reason for the pension system to be devised to include a lump sum payment and monthly payments is the hope that these civil servants can work with peace of mind and when they reach retirement age, they will be given a sum of money which will ensure a reasonable standard of living for them. For some of those from higher ranks, they may get a lump sum of over \$10 million and a monthly payment of some \$60,000 to \$70,000.

But things are different now. For these senior officials, they will start a new leaf in their life when they retire. Why do they have such opportunities to make money? As pointed out by many Members, this is because they have come to know much confidential information and built social links while in service. Why are they so eager to work for these giant consortia? It is because the sooner they leave the Civil Service, the more valuable is the news and information they have in their possession. This is the most important thing for them.

But what the Government has been doing is to fling wide the gate and give the green light to every one of their applications for post-retirement employment. The result is a massive exodus from the service and the situation is upset and got out of control. This is exactly the crux of the problem. Just imagine, would anyone hire these senior officials three years later? I bet their salaries will fall by a big chunk at that time. Why is every Commissioner of Police so eagerly hired when they retire? This is because he has the most confidential information of Hong Kong in his hands. He was the first one to look at reports from the Criminal Intelligence Bureau in the police and he knows which ones of these big bosses have been investigated. How important he is when he knows all the information about his boss and the enemies of his boss.

What the Government is doing now is therefore an insult to those serving civil servants who have this moral fibre. Those people who are willing to take a salary of some million dollars or even \$10 million and be the right-hand men of the bosses of giant consortia are doing a mockery to the Civil Service. Therefore, since they have obtained a lump sum payment and even if they have rendered a very distinguished service, I would totally agree that they should

cease to be paid any public money. It is because the money is from all the people of Hong Kong.

I think Secretary Joseph WONG cannot be blamed for all of the problems, for he is merely doing his work within the confines of the system. But the criticisms that he has not been doing his gate-keeping duties well and mishandling things are well-justified. Though it is not the Secretary who tells some people to act improperly, he has to do something when he sees some people have acted improperly and committed blunders. He cannot sit back and do nothing. That is why I am very disappointed to see the present state of affairs, especially the way in which these senior officials have behaved.

I fully support the motion moved by Mr CHEUNG Man-kwong. I hope the officials will stop drawing two salaries and so forming a split personality. I do not think they can serve the people of Hong Kong with all their heart when they are drawing two salaries. What they do is pandering their integrity and self-dignity. I only hope that these problems can be ameliorated in future. Thank you, Madam President.

MR LEUNG KWOK-HUNG (in Cantonese): Madam President, throughout our discussion, not a word has been mentioned about the need to monitor the Chief Executive. It seems that the Chief Executive has been excluded from this agenda item. It is indeed imperative to monitor the Chief Executive. Our Chief Executive, elected by 800 people, is rarely monitored. His power is above that of all the watchdogs. He can seek exemption even if he is asked to come here. This is what is happening at the moment. What the higher level does will have serious effects on the lower levels. The Chief Executive can be said to have set an example of allowing businessmen to interfere with politics. His achievement is also a prominent example. As I stated before, his family business, having avoided the crisis and risen against adversity, is being sought after in the stock market. Many well-known moguls in town are holders of its shares. This will surely arouse suspicion. Of course, I cannot possibly prove this, or I would have been a prominent figure of the Security Bureau or the Independent Commission Against Corruption (ICAC). Actually, some matters are beyond the reach of even the ICAC. For these reasons, it would simply be impossible for Members to grasp the crux of the problem without discussing the probability of the Chief Executive acting in his private interest or involving himself in collusion between business and the Government or transfer of benefits.

How can the subordinates of the Chief Executive be monitored, if the Chief Executive himself cannot be monitored? As the Chief Executive is not monitored for what he has done, how can we expect his subordinates to be monitored? Furthermore, it is amazing that the Chief Executive has courageously introduced into Hong Kong the accountability system, resembling neither an ass nor a horse, and made it a David's deer in the animal farm of politics. While half of the members of the cabinet were drawn from the business sector, another half were civil servants promoted to simply serve the purpose of temporarily filling the posts. Secretary Joseph WONG is one such example. He was a civil servant at that time and, all of a sudden, he turned into a politician. Yet, he was not truly a politician, for he is still being paid by the Government. Even when his boss steps down two years after, he can still retain his post. It is precisely for this reason that he has to entertain the guests. Though being neither an ass nor a horse, still he is given such a good post. He must therefore open the gate of convenience in formulating the code for monitoring senior civil servants, policy secretaries or directorate civil servants. The code is supposedly designed to facilitate them, after resigning from the Civil Service, to serve their future bosses by virtue of the information they have gained and the social links built up during their service in the Government.

Police are the icon of law enforcement. I have been arrested a dozen times. It is really ridiculous that the head of police can be exempted, and his successor can even tell us that this is police's tradition. How can he enforce the law, given the disgrace he has suffered for taking the lead to breach the law? I have been subject to unfair law enforcement — hundreds of people pointed their fingers at me and accused me of causing public disturbance, and I was consequently arrested. Why would this happen? Because law enforcement, or governance, must be politically correct. It must safeguard the increasingly apparent and rampant phenomenon of collusion between business and the Government and transfer of benefits. This is the crux of the issue. It would therefore be impossible to exterminate bureaucracy and prevent the directorate officials who are neither an ass nor a horse from serving a new master after they have retired, should we remain silent on the issue of monitoring the Chief Executive or turning him into a democratic figure.

Actually, if we look around us, we will see that Hong Kong's political arena is no different. With the race for the third-term Chief Executive already begun, participants from various sides have started competing for the post.

Two years later, even if the three Secretaries of Departments and 11 Directors of Bureaux cannot remain in office, they will definitely work for a new master. The ensuing problem is that they will definitely adopt a somewhat biased attitude or allow transfer of benefits in terms of policy in preparation for their switching to the business sector when they become jobless. Members must bear in mind that I am not talking about acceptance of bribes of hundreds of dollars by police officers from hawkers. I am talking about tilted policies. Otherwise, it would be impossible for us to imagine how the civil servants with normal intelligence and great wisdom could have made so many mistakes. Neither can we imagine how their superiors could have connived at their acts. This is the crux of the problem.

I learn from history that what happened in France during the period between Louis XIV and Louis XVI could be described as outrageous. The purpose of unifying the state and the church was to put the interest of the minority above that of the majority. The political reality in Hong Kong is that, while the first and the second levels are holding meetings among themselves, the third level is left to suffer. There is no national assembly and constitution in Hong Kong. To talk about bureaucracy, bribery and corruption alone, but not about political and constitutional systems will get us nowhere. I have no wish to continue condemning the Government too. I only wish to protest against the injustice suffered by the lower rank civil servants. The Government has adopted a policy of fattening the top at the expense of the bottom — while 40 000 lower rank civil servants will have to be trimmed over several years, senior government officials have already left the Civil Service for greener pasture while they are still on leave. What sort of society is this that lower rank civil servants are scolded and slashed every day? I hereby voice unfairness for the middle and lower rank civil servants. I hope they can defy orders, even at the risk of their lives, and expose more inside stories.

I will therefore support the Mr CHEUNG Man-kwong's original motion as well as Mr TAM Yiu-chung's amendment. I hope this Council can give the Government a clear message that reform, democracy, anti-bribery and anti-corruption are all indispensable.

MR JAMES TIEN (in Cantonese): Madam President, on behalf of the Liberal Party, Mr Howard YOUNG has expressed our views on this motion earlier in the meeting. I only wish to add a few comments after listening to the speeches

delivered by several Honourable colleagues earlier. The present discussion should be focused on civil servants, not the election of the Chief Executive, or the appointment of principal officials. These matters should be dealt with separately.

Given the six-month sanitization period and the possible deduction of leave from it, I agree that many senior civil servants can take up employment with certain organizations shortly after their retirement. Today's question is about taking up employment with private-sector organizations, not subvented public organizations. However, there are indeed numerous examples of retired civil servants taking up employment with subvented public organizations. This matter might have to be dealt with separately too. We have noted that the annual remunerations of the posts of several organizations examined by us, ranging from \$4 million to \$6 million, are comparable to those of civil servants at the rank of D6 or D8. Again, this matter has to be dealt with. Of course, Members may ask: Is there a conflict of interest? Although specific business interest might not be involved, this issue will still have to be dealt with because certain areas, such as transport, housing, the airport, and so on, are managed by public organizations.

In our opinion, middle-level civil servants can be divided into two categories. Mr Howard YOUNG has, on behalf of the Liberal Party, talked about administrative officers earlier. We have no opinions in this respect. However, we have noticed that many professional civil servants, especially those serving in the Lands Department and the Planning Department, might become notable figures to many in the community because many officials previously working in the planning and environmental fields have taken up employment with certain consortia in the business sector, particularly property developers, soon after their retirement, because they are familiar with the relevant ordinances and departments, and their ex-colleagues. Hence, even non-directorate officers or civil servants not of very senior ranks have become targets of property developers because the latter are able to perform their expected functions. I see no problem with other sectors. Let me cite the medical doctors of the Hospital Authority (HA) as an example. Of course, they are no longer civil servants. I see no problem even if they go into private practice after leaving the HA. However, if a government engineer takes up employment with a consultancy after retirement, and the consultancy is in turn hired by a property developer, the engineer might be able to achieve something because of his or her familiarity with the relevant legislation.

Another point I wish to raise concerns the personal hobbies of civil servants after retirement or while they are still with the Government, albeit I consider it inappropriate to raise such matters in this Council for discussion. Just now, Mr Albert CHENG cited an incident in which civil servants were treated to red wine worth \$10,000 per bottle by a political party chairman. I believe he was referring to me, because it seems unlikely for the chairmen of the other two political parties to consume red wine worth \$10,000. I have once treated Mr CHENG to a glass too. I believe he has not offered me any benefits; neither have I offered him any. In my opinion, it is inappropriate for us to express too many opinions on the personal hobbies of civil servants, such as buying such commodities as a bottle of red wine expected to appreciate in the future, cars, flats, classic paintings, whether before or after their retirement. After all, they have their freedom. We, as Members of this Council, should not make excessive criticisms about or interference with civil servants or retired civil servants with respect to their lifestyle, or their preferred clothing, cars or red wine (regardless of whether that bottle of wine is worth \$10, dozens or thousands of dollars). The Liberal Party has no particular opposing views on the two motions. While we will support Mr TAM Yiu-chung's amendment, we will abstain on Mr CHEUNG man-kwong's motion.

Thank you, Madam President.

MR KWONG CHI-KIN (in Cantonese): Madam President, I rise to speak in support of Mr CHEUNG Man-kwong's original motion and Mr TAM Yiu-chung's amendment. In his motion, Mr CHEUNG has called upon Secretary Joseph WONG to apologize, and also explained clearly his reasons for doing so. Mr TAM has also explained that there remains a considerable gap between the Secretary's handling approach and the expectation of the public. In my opinion, in addition to the public, the Secretary owes the Chief Executive an apology too. Why did I mention the Chief Executive, Madam President? Because I know that the Secretary would not listen to us; yet, he might probably listen to his boss. That is why I have to mention the Chief Executive. The Chief Executive was quoted by a news report two days ago that the Government could do better by, for instance, tightening the sanitization period for retired senior officials. Secretary, did it occur to you that the Chief Executive was pointing his finger at you that you had been too lenient? I think the Secretary

should be fairer to the Chief Executive by apologizing to him. Implicated by the Secretary, the Chief Executive has been told to identify inadequacies. Secretary, you are partly to blame.

Furthermore, I think Secretary Joseph WONG should apologize to serving civil servants too. Our existing civil service system is not completely useless. It is actually quite remarkable in certain aspects — it has not only introduced the required measures, but also established a vetting and approval mechanism as well as a monitoring system. However, for the system to work, the Secretary has to rely on civil servants to exercise self-discipline in making declaration. To avoid public suspicions, it would of course be most preferable for civil servants to maintain a high standard of cleanliness and self-respect, guard against conflicts of roles, and know how to avoid arousing suspicion. However, the entire system has been occasionally damaged by some black sheep in the civil service family.

As stated by Dr KWOK Ka-ki, the Secretary's approach is detrimental to the civil service system, and has led to its collapse. Some senior civil servants have told me in private that they have been caused to suffer by Elaine CHUNG and she should be blamed for causing them so much trouble. In my opinion, that is not the case. They have actually been caused to suffer by the Secretary, and he should really be blamed. This is because whatever systems are in place, they will always be exploited or abused. It was wrong for the Secretary to approve the applications indiscriminately and took no immediate actions to tackle the problems as soon as they had been detected. Let me cite the incident of Ms Elaine CHUNG as an example. The Secretary has behaved like a tube of toothpaste — he would only speak when being beaten up, and the harder he was beaten, the more he would disclose. The public opinion later grew so strong that even the Secretary was requested by this Council to attend a special meeting. Consequently, a number of Members were forced to keep the Secretary company in a meeting held on the day of Winter Solstice, with their festive mood being completely destroyed. *(Laughter)* At that special meeting, instead of seriously telling us the policy he had formulated, the Secretary only told us the direction he would take. Hurry up, Secretary. You have been beaten up once. Now you are telling us that the report would not be submitted until March. The situation would have been different if you had graped the trend of the times and handled the matter more appropriately at the meeting that day. Why did you not show us the report as it had already been completed? Could you act a bit faster?

Actually, you should have been able to cut Mr CHEUNG Man-kwong out. Had you done so, Mr CHEUNG would not be able to make use of the subject under discussion to make a fuss, right? However, you would rather be given one more slap by Mr CHEUNG. Actually, I have no wish to talk about the incident of Ms Elaine CHUNG. I am fed up with the repeated mentioning of it. It is unfair to Ms Elaine CHUNG too, for she is now being treated as a sinner. The Secretary should handle the investigation in a better way. Given the intense public opinion, should the report be presented earlier to give an account to the public, as well as to Ms Elaine CHUNG? This is why I concur with Mr CHEUNG Man-kwong, that the Secretary should apologize, not only to the public, but also to the Chief Executive and serving civil servants.

When it comes to the sanitization period, a number of colleagues have given a very clear account of the public's current concern earlier in the meeting. In terms of direction, the sanitization period should be lengthened, in the light of Members' concern about a possible transfer of benefits, particularly when policy formulation, classified information, and so on, are involved. However, some professional grades probably do not have these problems at all. As sentiment is running high and public opinion is so strong at the moment, the innocent will probably be implicated too. In view of Members' resentment, albeit not too strong, it might not be too appropriate for this question to be discussed today. Earlier, Dr KWOK Ka-ki raised the point that some former government doctors had continued to practise after retirement. The public is not expected to raise much doubt about this, as such practice is probably permissible under the existing mechanism. I hope we can, at future meetings held by the Panel on Public Service, remain calm and slowly examine this issue with the Government. Some professional grades, such as engineers, architects, medical practitioners, surveyors, lawyers, and so on, are unrelated to the formulation of policies as they are purely technical professionals. So, is it necessary to impose a longer sanitization period on them? In my opinion, Members should consider this carefully.

Another much-discussed issue concerns the counting of the sanitization period upon the completion of final leave. I very much agree with this. There has been extensive media coverage on this too. The former Commissioner of Police, Mr TSANG Yam-pui, serves as the most prominent example. I find it absolutely unacceptable for him, widely known as the "number one man", to take up employment with a consortium while he was still on final leave. How can his overlapped roles and identities be accepted? His roles are evidently in conflict. What a disgrace for the "number one man" to work for a consortium!

This is indeed a disgrace for us, Hong Kong people too. How can the problem be resolved? One solution is for him to complete his final leave first. Another solution is for the Secretary to refer to the practice of private-sector organizations whereby cash can be paid in lieu of paid leave. Identity is very important. In this connection, the exact amount of money has to be paid. Can Mr TSANG settle his bill to relinquish his identity as a civil servant before taking up employment with the consortium? I hope the Secretary can appreciate these concerns. He must not say that the matter should be treated in this way administratively or this is the usual practice. This is indeed a very serious issue of principle. I hope the Secretary can pay extra attention to it. Thank you, Madam President.

MR JAMES TO (in Cantonese): Madam President, I wish to make several points. First, in modern society, companies often recruit staff in the name of a consultancy. Let me cite the incident of Ms Elaine CHUNG, who has joined a ferry company, which is in turn employed by another company, as an example. Strictly speaking, according to the Government's former approval system, the ferry company, employed by the consortium as a cultural consultant, has just appointed an employee as its representative to take up the post. A loophole has thus arisen in the existing system because of the Government's failure to anticipate that a company can in turn be employed by another one. So, the person in question, claiming that she is just an employee of the ferry company, has been able to dodge the rules. This incident has occurred only recently. We should learn from our mistakes. Should the Government review whether an additional guideline should be issued to former government employees who have gained approval to inform them that, even though they are still serving the company for which approval has been given, they will still be subject to certain restrictions if their company has signed a consultancy agreement with another one, and that they should clarify the matter?

Second, since I am the Chairman of the Panel on Security, I would like to join in the discussion of the issue mentioned by a number of Members earlier concerning the taking up of employment by the former Commissioner of Police with a consortium. Let me start by saying a few words on the feelings of the front-line staff of the disciplined forces, particularly police officers, with whom I have come into contact. They are actually upset by the incident. According to the culture of disciplined forces, the Police Force is very much concerned about its reputation and being respected. They would feel bad should their boss,

widely known as the "number one man", take up employment with a consortium after retirement. It has been rumoured that their "number one man" was found to be bawled at and was ordered to do this and that in the consortium. Even members of the community have formed an impression that even the "number one man" is waiting for someone to offer him a job and that he is merely required to act as an apologist. Disciplined staff, particularly front-line or junior staff, have found such comments very hard to bear. It is obviously for the same reason that they are so concerned about the "number one" licence plate. They feel as if their own dignity is being affected. Of course, different people have different aspirations. It is very hard to say. Many of their bosses are doing exactly the same thing. If this is really the case, the Government should really consider, in promoting police officers in the future, whether many of those to be promoted to the Commissioner of Police will be eager to work for consortia in the future? Recently, there was an extreme example in which a Commissioner, who had not yet retired and was still living in the official residence of the Commissioner of Police, hinted to others that he still had the ability to work for he was not yet old. Furthermore, he would feel uncomfortable should he stop working, and he had no idea how to spend his time in the future. Perhaps he really thought that way. However, from the angle of others, he seemed to be telling interested bosses and consortia to find him for he was readily available. He has given people a very bad impression for saying something like this even before he retired. Actually, it has later been proved that this is exactly what he has done.

Concerning the case of Mr Sidney CHAU mentioned recently, I think we should be fair. I see it quite differently. First, the Airport Authority (AA) is a public organization; second, Mr CHAU was indeed previously seconded to the AA as Senior Assistant Commissioner of Police. Should there a conflict of interests or roles in his duties and responsibilities, I believe the Government would not have given him approval. I also personally believe there was no conflict. Therefore, the problem really lies in whether the established rules have been violated. The officer would be criticized had he gone too far. Under normal procedures, I believe this case should be less serious than others in principle. I must make a fair comment on this incident.

Concerning the issue of taking up employment with private-sector organizations during final leave, Members should know that, according to the codes of the Police Force, a police officer is duty-bound to or responsible as a matter of discipline for catching thieves when he spots a crime even if he is on

leave. Otherwise, he will probably be accused of absence from duty or cowardice. He should bear in mind that he is still a police officer, whether he is on leave or taking his final leave. So, how can a police officer work for others while he is on leave or taking his final leave? According to the relevant codes, he is still responsible in terms of discipline.

I raised this point during the policy debate. I wish to repeat it as Secretary Joseph WONG is here. Actually, it is widely circulated and generally believed in some government departments, including the Lands Department and the Planning Department, that if Mr A makes a very simple planning application or asks a question concerning the payment of regrant premium, he would know if you do him a favour. If you do not believe me, you may look at your senior colleagues and you will find that some of them are holding top posts. Even the Chief Executive is now vowing to identify inadequacies. If you detect cases of collusion between business and the Government, report them to the ICAC. Therefore, even if Mr A cannot offer you any benefit at the moment, he would still bear in mind that you have been good to him and that he should repay you. One day, he would offer you an appointment. How should we handle such matters? I have conducted two interviews during the past five years. I hope the Government can consider "buying them up". According to the existing codes for the Civil Service, there cannot possibly be reasonable expectation or reasonable vetting. I wonder if the Government can put in place a system in future to disallow retired civil servants from working outside. Instead, they should live on their pension until death, though they may go out working as volunteers. They must not harbour the thought that they may find someone else to employ them. This is probably a radical solution to the problem though, of course, a price probably has to be paid.

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

DR YEUNG SUM (in Cantonese): Madam President, I rise to speak in support of Mr CHEUNG Man-kwong's motion. To start with, I wish to point out that the Democratic Party has no objection to senior civil servants taking up employment in the business sector after retirement. With an ageing population, Hong Kong has seen its people enjoying a longer life. Many civil servants, being public officers with such an excellent performance, can actually continue to contribute to society or pursue their own hobbies after retirement at the age of

60. Insofar as this point is concerned, we are not trying to target specifically at them or give them a hard time. Madam President, our main objective is to request the Government to expeditiously review the sanitization system to prevent retired civil servants from taking advantage of the social links and the data and information they built up while being holders of public office to assist their present employers in knocking down their competitors and thereby gaining benefits.

I believe fair competition is taken very seriously in Hong Kong. It is from this angle that Mr CHEUNG Man-kwong has proposed this motion on our behalf. Mr CHEUNG has already pointed out in his speech that the existing sanitization system is seriously flawed. Hence, I will not repeat this point here. Mr CHEUNG has summed up three major problems as follows: inadequate laws and regulations, loose enforcement of law, and negligence of duty on the part of government officials. Perhaps the Secretary should let us know the Government's views on these three major defects.

Actually, the phenomenon of civil servants taking up employment in the business sector has existed for a long time, but why has it aroused so much attention recently? Of course, some individual government officials have also stirred up much controversy for taking up employment in the business sector during their final leave soon after retirement. However, I believe the grave concern aroused on this occasion is mainly caused by the changed circumstances with the passage of time.

Basically, such problems were not uncommon in the colonial past, but how did they differ from those we have now? At that time, the Hong Kong governors, appointed by the British Government, were not businessmen *per se* and had no business background. After the reunification, however, our Chief Executive, from a traditional, influential family with a business background, has too many ties with the business sector. In brief, businessmen began to rule Hong Kong after the reunification and many troubles and weaknesses are thus completely exposed. Hence, an incident previously not considered very problematic, such as a retired civil servant joining the business sector, would abruptly arouse grave concern in the community. I believe this is largely related to the fact that Hong Kong is now being ruled by businessmen. The close ties between the Chief Executive and business, given that his family is engaged in the same field, have very often aroused suspicions of transfer of benefits. Besides businessmen ruling Hong Kong, the method of selecting the

Chief Executive has also contributed to the problem. As the Chief Executive is elected under a small-circle electoral system, the hundreds of people in the small circle are actually his voters. If the Chief Executive wishes to be re-elected again, he must explain and be accountable to them. Such a political relationship will easily lead people to think that the Chief Executive has to do something, such as returning a favour with a favour. They will also easily associate the Chief Executive with transfer of benefits. We hope the Government can pay serious attention to this matter.

Madam President, during our previous discussions on electoral laws, we repeatedly raised the point that the relevant provisions on the monitoring of candidates or the prevention of corrupt practices in election are not applicable to the problems related to the Chief Executive. However, there is still an absence of comprehensive rules governing the Chief Executive election. Furthermore, the Prevention of Bribery Ordinance is not applicable to the Chief Executive, since he is not a civil servant. This has given people a very ridiculous impression that the Chief Executive is above the laws of Hong Kong. To Hong Kong, where the rule of law is taken seriously, this is utterly unacceptable. As the remaining term of the Chief Executive is running out now, the election of the third-term Chief Executive will soon take place. However, who should assume the role of monitoring the election of the Chief Executive? After a candidate is elected, how long will it take before the Prevention of Bribery Ordinance can be applied to the Chief Executive so that equality for all before the law can be achieved? Madam President, I hope the Secretary can pay particular attention to these two major unresolved issues. For these reasons, Hong Kong is still a laughing stock in the international community. At the same time, there still exists a huge grey area in our political system. I hope the Secretary can, in his response, focus on elaborating on the monitoring of the Chief Executive.

Next, the accountable principal officials. As the Accountability System for Principal Officials has been implemented for three years, only two years are left. Following the expiry of the tenure of the Chief Executive, the accountable officials will probably step down from their posts too. As they will probably join the business sector very soon, how should they be monitored? Under the existing sanitization system, accountable principal officials are monitored even less stringently than senior civil servants. Given the enormous reverberations among members of the community about civil servants joining the business sector, it is even more likely that there will be greater reverberations should

accountable principal officials join the business sector two years later. I hope the Secretary can pay extra attention in this respect.

Today, Mr CHEUNG Man-kwong has happened to propose such a pertinent motion. I hope Honourable colleagues can lend their support to urging the Government to, pinpointing the ills of our time, initiate reforms early and allow those civil servants capable of continuing to serve the community to do so through a reasonable mechanism. Thank you, Madam President.

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

MR ABRAHAM SHEK: Madam President, when top-ranking government officials retire, they face the same dilemma which ordinary retirees face: What to do with all their newly found time, and how to put their experience to optimal use? Some of them very nobly participate and become active in voluntary work, which is an act I highly admire. Others prefer to start a second career in the private sector or in the Legislative Council. This is a choice which I too respect, as they have every right to take such a new life path. But this right should come with certain conditions. There are two criteria which should be met: First, the work must not be in conflict of interests with the position of the retired civil servant, and second, it must not be deemed to constitute a conflict of interests.

I note that some people have argued that we may be treating our retired civil servants too harshly, citing laxer standards in the United States. But then, our civil servants are among the best paid in Asia, if not in the world. So, they should be held to a higher standard. Nevertheless, it is apparent that the personal retirement plans of a few may be putting the whole Civil Service's reputation at stake. Taking all these factors into account, is it too much to ask our ex-officials to refrain from putting on a businessman's hat too hastily upon retirement? Is it appropriate that they should suddenly defend the interests of a public company on the same policy areas which he or she used to advocate on behalf of the Government only months earlier? In this respect, I consider the public's demand on the issue quite reasonable and decent.

That said, I still cannot support the original motion's demand for an apology from the Secretary for the Civil Service — Ms CHUNG's case has not been resolved. According to the Secretary, a follow-up investigation is

underway. I expect the investigation would eventually clear all doubts surrounding Ms CHUNG's claims.

I do support the original motion's proposed measures, which include introducing a two-tier sanitization period; expanding the system to cover jurisdictions outside Hong Kong; tightening up the granting of approvals and the monitoring system, as well as enhancing transparency in the vetting process.

I feel a more stringent approval mechanism is especially important. As things stand, special cases were approved way too indiscriminately. As the approval power is vetted by one, and only one official, namely the Secretary for the Civil Service, the public cannot help but suspect that Joseph, the gatekeeper, is a bit too lenient when it comes to green-lighting exemption applications filed by his old colleagues — I was asked by my colleagues to speak this particular phrase. In addition, the Advisory Committee on Post-retirement Employment — as its very name suggests — appears to be no more than a rubber stamp.

The Government may have to consider whether a panel or a committee, instead of one single accountability officer, should be entrusted with vetting power. Arguably, the other improvement measures, such as extending the sanitization period and restricting new employment during the pre-retirement leave, will have little effect if this back-door exemption arrangement remains unchanged as it now stands.

In turn, this will also encourage calls for greater transparency in the vetting process. On what grounds, for example, did the Secretary approve exemption applications for employment during the sanitization period, or even during a pre-retirement leave? Put it simply, has the Secretary been satisfied with the applicant's justifications for accepting a job offer so hastily? The public needs more information to monitor the Government's regulatory regime on the employment of its retired staff.

Ultimately, Madam President, the purpose of today's motion is not to punish our civil servants. Instead, it is simply aiming at restoring the public's confidence in the Civil Service and its retirement system. Thank you.

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, in certain government projects, some senior officials in the Government were actually on secondment from the private sector, whilst some civil servants were also seconded to the private sector in the past. The objective of such arrangements was to introduce private sector experience into the Government, or *vice versa*, to introduce government experience into the private sector. As long as the rules are set clear and proper, it is no bad thing at all. In fact, when I look at foreign experience, I find that some politically appointed officials would take senior posts in the private sector, one of them was the Treasury Secretary Robert RUBIN who had served in the CLINTON Administration. Soon after he had resigned from the post of Treasury Secretary, he took the post as Chairman of Citicorp.

Each place has its own system, and the core of the debate this time around is that after a system is established, the Secretary is allowed to open a back door from time to time, which has undermined the system. The more senior the official the closer he can get to the Secretary, and the more likely that he can convince the Secretary; on the contrary, the interests of many innocent middle managers in the Civil Service who have reached the age of retirement may well be damaged despite the fact that they could find a new job in view of their experience whilst the job may not necessarily involve any conflict of interest. Nevertheless, after debating the matter in society, the public may have a feeling that civil servants could make more money after retirement. Actually, in the list spelt out by Mr CHEUNG Man-kwong earlier, only a few of the officials were suspected to be involved in a conflict of interest. I do not wish to name any name because Mr Albert CHENG will definitely criticize me for that, but I cannot help associating them with the cockroach droppings theory raised by former legislator NG Leung-sing. In fact, the overall government policy is heavily criticized because of a few civil servants.

For that reason, the problem lies in how well the Secretary enforces this policy and whether he can do it by the book. The Secretary has every responsibility to defend government policy and to say "no" to his colleagues, former subordinates and former colleagues, and this is the most important thing among all. Certainly, every system should have exceptions, and it would be quite extraordinary if a system allows no exception. Nevertheless, if the exception becomes regularity, it is no more exception but routine. Today, Mr CHEUNG Man-kwong moved the motion only because he had seen so many exceptions. If there are not so many exceptions, then it would be unnecessary to tighten the system.

In fact, when I looked at the content of Mr CHEUNG Man-kwong's motion, I also questioned myself whether it would be too harsh towards the Civil Service. Nevertheless, middle and lower rank civil servants have to take the blame just because the disclosure of a few cases, as the saying goes, "the black dog stole but the white dog took the blame", or "the senior management stole but the middle and lower rank took the blame." I hope the Secretary can review whether the decisions he made were too lenient. Were the decisions he made in respect of his former colleagues or colleagues from the same batch too lenient? This is actually more a matter of enforcement than long-standing policy. Since he did not enforce them properly in the past, we therefore should require him to tighten the policy. I do hope the Secretary can carry out a review in that respect.

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

Moreover, an important point is that even if this system is established, when another Secretary takes office two years later, the problem will still persist if he has so much power in hand. For that reason, I hope today's motion can plug the loophole.

With these remarks, I support the motion moved by Mr CHEUNG Man-kwong.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, you may now speak on Mr TAM Yiu-chung's amendment. You have up to five minutes to speak.

MR CHEUNG MAN-KWONG (in Cantonese): Madam Deputy, today I am very pleased to find that, generally speaking, despite some minor differences in this Council on the issue of regulating the post-retirement employment of senior

officials, or even though there are some technical differences, Secretary Joseph WONG should have clearly appreciated the spirit and direction adopted by Honourable Members towards this matter and that is, Members are greatly dissatisfied with the current regulatory practice. First, the system is flawed; second, the authorities concerned have constantly acted in an excessively generous manner in enforcing the system and, as a result, the system has existed in vain; and third, he himself has made a lot of mistakes throughout the process of handling the retirement of senior officials.

However, I will only make several points briefly in response to Mr TAM Yiu-chung's amendment. First, the length of the sanitization period. Insofar as this issue is concerned, Secretary Joseph WONG has indicated that the Government is prepared to revise the period by extending it from six months to one year. Actually, I have merely, on this basis, added a special senior rank, that is, officers at or above the rank of Permanent Secretary, which are approximately equivalent to officers at or above D8. I have consulted government officials regarding this matter. Insofar as individual officials, such as Donald TSANG or even Mrs Anson CHAN, are concerned, if they really have to go out to work when they are still within the three-year period during which they have to seek approval under the present system, they must apply according to the system. These people actually hold a lot of important secrets of the Government. As such, the dozen of officials at the rank of Permanent Secretary must be strictly defined, and their sanitization period should be two years.

Furthermore, the locations of regulation should be extended to mainland China and Macao, in addition to Hong Kong. Mr TAM Yiu-chung, being the chairman of the relevant panel, must definitely remember that this proposal was actually raised by the Secretary himself at the previous meeting of the Panel on Public Service. Why do I remember so clearly that the proposal was raised by him? This is because I had originally prepared to raise a question on this matter. As the Secretary had unexpectedly raised the same question before me, I had thus withdrawn my question. Of course, he may refer to the tape recording. This point was raised at that time because many companies were actually operating across three places. Declaration and application are therefore warranted. Let me cite a simple example. Under the present system governing the declaration of interest by civil servants, investments outside Hong Kong must be declared. Given that such a short-term arrangement as investment has to be declared, why

is it unnecessary for civil servants to apply if they plan to take up employment with a company operating across three places?

Third, I have insisted in the motion that Joseph WONG should apologize for his mishandling of the matter. I know that my motion will gain more support if this part is deleted. Once this part is included, some Members may not support the motion. But why do I still insist on doing so? This is because I see that the general policy for accountable principal officials and the retirement policy for senior officials, led by Secretary Joseph WONG, have led to the collapse of many existing systems. Consequently, many systems are merely written on paper without being enforced. As such, the Secretary is entirely responsible for the collapse of the systems, and even the incident of Ms Elaine CHUNG. I have no intention to spare him. I wish to tell the public in unequivocal terms that he can hardly shirk his responsibilities.

Furthermore, he evidently handled the incident of Ms Elaine CHUNG in a slipshod manner and made incorrect judgement during the initial period. Even when he answered a question put by Mr KWONG Chi-kin in this Council eventually, he still insisted that there was no conflict of interest on the part of Ms Elaine CHUNG in the West Kowloon incident. This is absolutely outrageous. He should really feel ashamed to be the accountable official in charge of this policy. For me, asking him to apologize is already the lightest punishment. However, our demand for him to apologize will definitely affect Members' position and his lobbying. Therefore, it is very likely that our motion may not be passed. But still, I have to make it clear that I insist that he should apologize. As stated by Mr KWONG Chi-kin earlier, he should apologize, whether to the Chief Executive, senior officials, civil servants or members of the public.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam Deputy, over the past few months, the public has been gravely concerned about the possible conflict of interests arising from civil servants' post-retirement employment with private organizations. The motion debate today is most welcome because it gives me an opportunity to explain to the Council and the community relevant policies and measures and clarify certain misunderstandings, whether deliberate or not. I would like to thank Members for expressing valuable views on the issue. My speech is going to take some time and please tolerate my wordiness. In response to certain exaggeration and false statements, I see the need to correct them with detailed facts and objective justifications.

Equity, fairness and integrity are the core values of our society. The community at large expects that the Government implements policies on the principles of equity and fairness and provides a level playing field for all. People of Hong Kong also have high expectations of the integrity of civil servants. A clean civil service system helps sustain the core values of equity, fairness and integrity and is the cornerstone of the effective governance of Hong Kong. Over the years, through well-defined policies, legislation, rules and guidelines, stringent procedures and proper monitoring, the Government has established a comprehensive regulatory framework to govern the conduct of civil servants, in the areas of prevention of conflict of interests, declaration of personal investments, use of government data and outside work, and so on. The effectiveness of the Government in maintaining a clean and efficient civil service system have earned the wide acclaim of Hong Kong people and the international community.

Before turning to policies governing post-retirement employment of civil servants, I want to point out that the vast majority of civil servants are clean, honest and law-abiding. They act in the public interests and in a prudent manner to avoid any perceived conflict of interests. A civil servant who seeks advantage by making improper use of data collected by virtue of his post would have already contravened the Prevention of Bribery Ordinance and the Civil Service Regulations. Once his offence is revealed, he is liable to criminal prosecution or internal disciplinary actions. As a matter of fact, many civil servants have served the community dutifully and devotedly while in service, and continue to make contribution to the society by taking part, to different extents, in voluntary or unpaid work after retirement. For those engaged in paid work upon retirement, we must treat them fairly because they should enjoy the same right to employment as others. The pension schemes and legislation applicable to civil servants do not forbid pension recipients to take up approved work. Neither do I think it is appropriate to forbid retired civil servants from taking up work in approved circumstances. The existing mechanism governing post-retirement employment of civil servants might have room for improvement and we will be open-minded in carrying out the review. Members are most welcome to join the discussion, and I certainly hope that they will do so from an unbiased perspective.

I shall first talk about the existing policy and measures. The policy governing post-retirement employment of civil servants aims at preventing conflict of interest to safeguard public interests and maintaining the public

confidence in the integrity of the Civil Service. When drawing up the policy, the Government is committed to striking a balance among public interests, the right to employment of retired civil servants as individuals and the public expectations of the integrity and impartiality of civil servants. In fact, public interests and the right to employment of retired civil servants are not necessarily contradictory. As long as no conflict of interests is involved, such human capital flow is healthy and brings benefits to the community as a whole when former civil servants equipped with expertise and experience in public administration or professional fields join the business sector or other organizations.

According to the current policy which has been in place since 1987, officers retiring at the rank of Administrative Officer Staff Grade A1 or above (such as Permanent Secretary of Policy Bureaux) have to seek prior permission from the Chief Executive before they enter into business or take up employment, if the principal part of the business or employment is carried on in Hong Kong, within three years after retirement. Other officers have to seek prior permission within two years from retirement. Failure to seek prior permission may result in suspension of pension under the Pensions Ordinance. For agreement officers, starting from January 1997, officers at the rank of D3 or above are also required to seek prior permission if they take up employment with outside organizations within one year upon contract expiry. This has already been stipulated in their contract agreements, and they must comply with the provision.

For applications from non-directorate officers, the approving authority are the respective heads of department/grade under delegated power. For applications from directorate officers, they are first vetted by the respective heads of department/grade or Permanent Secretaries and then referred to the Advisory Committee on Post-retirement Employment (ACPE) for advice. These applications are finally submitted to the Secretary for the Civil Service for approval. The prerequisite for approval is that there should be no conflict of interests between the proposed work and the former duties of the applicant.

When a civil servant submits an application for post-retirement employment, he is required to provide details on the proposed work (such as name of prospective employer, duties, level of pay and expected date of employment). He is also required to give a statement as to whether he has any past dealings with his prospective employer and whether he has had access to any

commercially sensitive data during his service in the Government. The approval authority will especially focus on:

- (a) whether the officer, while serving in the Government, is involved in policy formulation, or decisions which could have benefited his prospective employer;
- (b) whether the prospective employer might gain an unfair advantage over competitors because of the officer's previous knowledge and experience; and
- (c) the public perception of the officer taking up the proposed business or employment.

Depending on the circumstances of a case, the approval authority may forbid the applicant to undertake outside work within a specified period of time upon ceasing active service, that is, to stipulate a sanitization period. The approving authority may also impose restrictions on the scope of the proposed work, for example, forbidding the applicant to take part in dealings between the Government and his prospective employer.

As just mentioned by the Honourable LEUNG Yiu-chung, our existing regulatory system of post-retirement employment of civil servants is largely modelled on the British system. At present, a British civil servant who plans to take up full-time, part-time or paid work with any public or private organization within two years after leaving service must apply for approval, while approval is not necessary for unpaid work in non-business organizations. For applications from senior officers, the British Government will consult an independent Advisory Committee on Business Appointments. As a general rule, a senior officer has to wait for three months before he may take up employment with an outside organization after leaving the government. If the advisory committee considers the proposed employment proper and unrelated to the data the officer has obtained during his public service, the waiting period can be exempted at discretion. The advisory committee may also impose restrictions on the scope of the proposed work. The British Government believes that it is in the public interest to allow officers with experience in public administration to join the business sector or other organizations. Such flow of human capital should not be impeded simply because the public may be concerned about isolated incidents. As far as we know, the regulatory measures adopted by the British Government

are administrative in nature. Deterrent effects are achieved through a high degree of transparency of the system, public monitoring and the pressure of public opinion.

On the ground that only one application was rejected in 2003, the Honourable CHEUNG Man-kwong has just concluded that our approval procedures are not stringent enough. Let me explain. Our civil servants are well informed of the approval criteria by various circulars. They know very well what kind of work will be approved or will not be approved. Under normal circumstances, they will not submit an application if they are certain that approval will not be granted. In fact, most civil servants submit applications six months after ceasing active service. I would like to quote the analysis of the cases approved in 2003 and 2004 to illustrate this. In 2003, we approved a total of 76 applications. Of these, the applicants of 41 cases submitted their applications at least six months after ceasing active service. On average, the applicants had already ceased active service for 15 months at the time of application. These figures are for 2003.

The figures for 2004 can illustrate even better. That year, a total of 69 applications were approved and the applicants of 40 cases submitted their applications at least six months after ceasing active service. On average, they had already ceased active service for 16 months at the time of application. Specific sanitization periods ranging from six months to 30 months (average being 11 months) were imposed on the applicants of another 14 cases. There were altogether 54 cases in which the applicants took up outside work six months or more upon ceasing active service, representing 78% of all approved cases. In 12 of these cases, restrictions on scope of work were imposed. For the remaining 15 cases, the applicants took up outside work within six months after ceasing active service. Most of them undertook work relating to education, medical services or professional institutions or worked in public organizations. These figures show that even though one or two individual cases could have been handled in a better way, contrary to what some Members suggest, the sanitization period and other specific restrictions are not window-dressing.

As far as the approval of applications from directorate officers is concerned, the ACPE is definitely not a rubber stamp. Rather, it has an important role to play. Established in October 1987, the Committee gives advice on the principles and criteria to be adopted in dealing with applications from civil servants for post-retirement employment as well as applications from

directorate officers and other officers. The chairman and members are all appointed by the Chief Executive. The Committee is now chaired by a Judge of the Court of First Instance of the High Court and comprises three non-official members. All applications from directorate officers are referred to the Committee for consideration. Upon considering the information and advice provided by the departments concerned, the Committee will advise on the length of sanitization and other necessary restrictions. Here I want to point out clearly that the Secretary for the Civil Service has in general accepted all the advice given by the Committee.

Since its setting up in 1987, the Committee has offered the Government a lot of valuable advice on regulatory measures and approval criteria and has exercised prudence in handling each case. Before making a decision, the approval authority has to fully consider the advice and recommendations of the Committee. We consider this system well-established and it has been operating smoothly. Nevertheless, with a down-to-earth attitude and an open mind, the Government and the Committee are willing to explore room for improvement.

I agree entirely that the existing regulatory system needs further improvement to rise to increasing public expectations of the integrity of civil servants. In mid-2004, well before the particular case drew public attention, I pledged to conduct a comprehensive review of the policy governing post-retirement employment of civil servants. This is a matter of public record. In response to the question asked by the Honourable LI Fung-ying, I wish to point out that directorate officers are the major focus of our review. Our original plan is to brief the panel on the review in May this year. But in view of Members' concern, we agree to advance the discussion over the review outcome to the March meeting of the panel.

Though the review is still underway, we have certain initial thinking. Over the past few weeks, I have mentioned these ideas on various occasions. My ideas are somewhat different from those of Mr CHEUNG Man-kwong; I shall clarify later. Our initial thinking is to improve the regulatory mechanism in the following directions:

- (a) tighten the vetting of applications and monitoring of cases;
- (b) tighten the restrictions on undertaking outside work during final leave;

- (c) consider lengthening the sanitization period; and
- (d) enhance the transparency of approved cases.

First of all, to restore public confidence in our approval criteria, we are considering some changes to the approval procedures. For applications from directorate officers, apart from the head of bureau/department in which an officer last serves, as a standard procedure, we will also request the head of the bureau/department which oversees the area of work of the prospective employer to give advice on the proposed employment.

To enhance monitoring, we shall consider seeking improvements in the following areas. We shall require an applicant to provide greater details, including the actual duties performed during the last three years of government service, as well as the business nature and scope of work of his prospective employer. The applicant should also make a statement declaring that the information provided is complete and accurate. The relevant head of department/grade should in particular, assess critically the public perception of the application so that the approving authority can make a decision on the basis of sufficient and complete information. The applicant is also required to inform his prospective employer of the approved scope of work as well as any additional conditions imposed before taking up the proposed work or employment. At present, when approving applications of post-retirement employment, the approving authority requires that the applicant informs it of any subsequent material changes to the approved work. Depending on the circumstances, the applicant might need to submit a fresh application. To monitor more closely changes to the nature of the work undertaken by directorate officers in the private sector, we shall require that these officers give us an update on their outside work on a regular basis.

The public and Members are both concerned about the outside work taken up by civil servants during their final leave. In response to the question raised by the Honourable Margaret NG, I wish to point out that the existing policy may allow directorate and non-directorate officers alike, irrespective of rank, to undertake during their final leave outside work that constitutes no conflict of interests with their former duties upon granting of approval. As to whether this policy should be tightened in future, I think the major considerations should be public doubts over potential conflict of interests and possible confusion about an officer's status. We shall study whether civil servants should be prohibited

from taking up outside work during their final leave, with possible exceptions of voluntary or unpaid work in non-business organizations or holding important public offices. I would like to recapitulate that the final leave is the paid leave accumulated by an officer during his service in the Government. Even if an officer is also paid by his outside employer for the outside work undertaken during his final leave, there is no question of the public purse "paying double salary".

Just now the Honourable KWONG Chi-kin and other Members asked if it was possible to allow civil servants to encash their leave in one go. I believe that apart from some fundamental problems of principle, we also need to take account of the huge amount of public funds involved as many civil servants have accumulated considerable leave.

The Honourable James TO asked if the Government could make one-off payments to civil servants in certain grades with a view to banning them from working after retirement. This suggestion would involve many difficult issues, like the selection of grades, the great number of civil servants affected, as well as the substantial financial commitment. But on top of these, there is the question of legal principle. The right to employment is part and partial of basic human rights. As such, we need to have the consent of the civil servants concerned, but such consent might not be forthcoming.

I understand that the community has high expectations of the conduct of senior civil servants. To remove any possible doubts, we are considering extending the sanitization period. In drawing up the proposals, we shall need to strike a right balance between meeting public expectations and protecting the right to employment of retired civil servants, bearing in mind that going too far would be undesirable. In respect of certain professions just mentioned by some Members, for example, is it necessary to specify a long sanitization period if a doctor continues to provide medical service in the private sector? Another example: It may be in the interest of the community for a lawyer to take up legal work after leaving the Government. Hence, setting any stringent and rigid sanitization period of one year or two may not be reasonable, may not be in the public interest and may not be fair to the officers concerned.

(THE PRESIDENT resumed the Chair)

When giving thoughts to the proposals on the sanitization period, we must consider whether it is reasonable to prohibit a retired officer from undertaking outside work that involves no conflict of interests for a long period of time, or to set a longer sanitization period for all officers irrespective of rank.

We of course agree that the higher the position a retired officer previously held, the more data he had access to. The public naturally have higher expectations of the integrity of these officers. We have some preliminary thinking, but let me stress that this is just preliminary because we need to seek legal advice and consult the civil servants first. Our thinking is to lengthen the sanitization period applicable to senior directorate officers from the present minimum duration of six months to 12 months. We shall of course consider enforcing the sanitization rule more strictly. For example, unless there are significant public interests to do so, the approving authority shall not remove or shorten the sanitization. In other words, for applicants who plan to take part in commercial activities or join commercial organizations, it is unlikely that the sanitization period would be exempted or shortened in their cases.

At present, the ACPE issues a report to sum up its work annually. The report is given to Members of the Panel on Public Service for reference. To further enhance the transparency of approved cases, we are considering disclosing regularly information about the outside work undertaken by retired directorate officers, including the name of the retiree, the last government department served, the organization he intends to join and the future post, the approved or forbidden scope of work, as well as the length of sanitization period. Disclosure of data will facilitate monitoring by the public. This may have greater deterrent effects towards potential rule-breakers because apart from suspension of pension under the relevant legislation, they are also subject to open criticism.

I wish to point out that enhancing the transparency of approved cases does not mean that the Government is shirking its responsibility to monitor cases that are against the rules. Earlier on, I have already briefed Members on our ideas on enhancing monitoring.

The preliminary suggestions mentioned above, if adopted, will necessitate significant changes to the existing mechanism. Some of these suggestions also involve relatively complicated legal considerations. I hope Members will

understand that we need to study these initiatives in detail, seek legal advice and consult the staff before making a decision.

Some Members asked if the application of the existing restrictions can be extended beyond Hong Kong. This suggestion was in fact found in the original motion of Mr CHEUNG Man-kwong. He said this was proposed by me. He said we could listen to the the tape recording of the last panel meeting. But actually, there is no such need. Here I have a record of what I said at the panel meeting on 21 December 2004. On that occasion, I said the existing system was devised according to law and the Pensions Ordinance only imposed restrictions on post-retirement employment and business in Hong Kong, excluding places other than Hong Kong. The way I then put it was given the fact aforementioned, if it were considered necessary to extend the geographical coverage of the control regime, legislative amendments would have to be made. As indicated in the minutes of meeting, I did not suggest that this had to be done at once. We think that at present, there are no strong grounds or pressing need for extending the geographical scope of control beyond Hong Kong to cover the Mainland and Macao.

I want to point out that at present we have a notification system that requires retired directorate officers to notify the Civil Service Bureau if they take up any paid work outside Hong Kong during the control period. This mechanism enables us to assess whether the work involved has any conflict of interests with Hong Kong. Should we need to study in future whether to extend the area of restriction, we might need to consider places other than Macao and the Mainland. We would need to consider whether there are sound justifications and study the feasibility in execution and monitoring. Besides, we need to consider whether the situation calls for amendments to the Pensions Ordinance which many civil servants are deeply concerned with. I have never suggested revising our existing mechanism to extend the area of application beyond Hong Kong.

In the course of review, we shall take into account valuable views expressed by the public and Honourable Members of the Legislative Council. Furthermore, we shall seek legal advice and in particular, consult the Independent Commission Against Corruption.

Let me say something about the application for post-retirement employment submitted by a former Deputy Director of Housing so that my

response to Members' criticism can be put on record. I know I have spoken for very long and thank you for your patience. Regarding this case, I already gave an explanation when I responded to the question asked by Mr KWONG Chi-kin on 1 December 2004. A detailed paper was submitted to the Panel on Public Service the same month. At the relevant panel meeting, I also answered questions put forward by Members. Having pledged to follow up the queries raised by Members, I shall inform Members of the investigation results within this month. I believe that Mr KWONG Chi-kin, as a lawyer, will understand that we must conduct the investigation in accordance with law and the right procedures including granting the individual concerned an opportunity to defend herself. We should not allow political or time factors to affect the due process.

I want to reiterate that this case was processed according to the established procedures and guidelines. Approval was given on the basis of the information provided by the applicant in her application. Permission was never given for her to take part in business related to real estate or land development, or work for any organization other than the ferry company, or engage herself in the bidding for the West Kowloon Cultural District project. In September last year, some time before Members asked about this case, we already noted that this retiree might be undertaking work not covered by the approval given and took immediate actions to follow up. We had further imposed six restrictions on the retiree's scope of work before Mr CHEUNG Man-kwong and the Honourable KWONG Chi-kin requested a special meeting to be held on the day of the Winter Solstice. As a matter of fact, a letter was issued to this retiree in late November and this was also mentioned in my reply to Mr KWONG Chi-kin's question on 1 December 2004. This can be traced in the minutes of the Council meeting. On 3 December, in view of the media concern, I made further clarification. Looking back, of course we could have done better in handling this case. But the fundamental principle remains the same, that is, no breach of approval will be allowed. If there is evidence showing that this retiree has breached the terms of our approval, we shall definitely handle the case according to law and the Civil Service Regulations. Drawing on the experience of this case, I now feel more certain of the need to improve the mechanism, in particular, to enhance transparency. More often than not, case details quoted by some Members are just partly true and partly false, not completely accurate. The decisions on all cases are made after careful deliberation. However since our existing mechanism is not transparent enough, not all cases are known to the public. I hope that in future there will be no more guessing or popping up of examples and the details of all approved cases will be made public for open monitoring.

Just now Mr KWONG Chi-kin seemed to suggest that the Secretary for the Civil Service is to be held solely responsible for all the faults. This is strange because if that were the case, then he should not be supporting the motion of improving the existing mechanism. The fault of one individual is easy to correct, but possible defects of a system must be corrected upon careful consideration.

Finally, the motion also touches upon Principal Officials' post-departure involvement in business activities. I wish to point out that Principal Officials are different from civil servants. Civil servants are permanent staff while the term of office of Principal Officials normally will not exceed the five-year tenure of the Chief Executive, who can be re-elected only once. As far as the principle of preventing conflict of interests is observed, Principal Officials' freedom to choose employment upon expiry of term of office should not be tightly restricted, lest this would discourage people in professional fields and the business sector from joining the highest echelon of the Government, thus resulting in a smaller pool of candidates.

Following the above principle, section 5.15 of the Code for Principal Officials under the Accountability System specifies that "Within one year after stepping down from office, Principal Officials shall seek the advice of a committee appointed for this purpose by the Chief Executive before commencing any employment, becoming a director or a partner in any business or profession or starting any business or profession on his own account or with others. The proceedings of the committee shall be kept confidential but the advice given shall be made public."

The said committee will make open its advice so that the public and the media can fully monitor the employment or business undertaken by the Principal Officials within one year after leaving the Government.

As far as post-departure involvement of the Chief Executive is concerned, at present there are no restrictions. When considering whether to impose any restrictions on the post-departure involvement of the Chief Executive, we should take into account:

- (a) prevention of conflict of interests; and
- (b) freedom and rights of the outgoing Chief Executive.

The Government is now looking carefully into this issue and we shall inform the Legislative Council of the outcome in due course.

I would like to respond to the Honourable Albert CHENG's criticism which I find unfair. The remuneration packages for all Principal Officials, including that for the Secretary for the Civil Service, were discussed openly and in great detail at the Legislative Council when the Government launched the accountability system. The packages were accepted by most of the Members at that time. My package is completely in line with the packages approved then. When I took office as a Principal Official, I made it quite clear that I would not return to the Civil Service. My statement was reported and recorded extensively by the media at that time.

Madam President, to sum up, I think that the proposals made in Mr CHEUNG Man-kwong's original motion, such as lengthening the sanitization period from six months to two years for officers retiring at the rank of Administrative Officer Staff Grade A1 or above, and extending immediately the geographical scope of business or employment to cover the Mainland and Macao, are inappropriate because they are more stringent than necessary. I therefore do not support the original motion. As regards the amendment moved by the Honourable TAM Yiu-chung, the proposed improvements, relatively speaking, can cater for the present-day situation better, and are generally in line with the major direction of our review.

Lastly, I wish to reiterate that the Government takes it very seriously that civil servants must display the highest level of integrity and we are fully aware of the expectations of the community and Members. I shall remain open-minded when listening to views from various parties, especially those expressed by Members of the Legislative Council. I shall fully discharge my responsibilities as the Secretary for the Civil Service as an accountable Principal Official and make efforts to revamp the existing approval mechanism and monitoring measures of post-retirement employment of civil servants. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr TAM Yiu-chung to Mr CHEUNG Man-kwong's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr CHEUNG Man-Kwong rose to claim a division.

PRESIDENT (in Cantonese): Mr CHEUNG Man-Kwong has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Raymond HO, Ms Margaret NG, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr CHIM Pui-chung, Mr Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Mr CHEUNG Man-kwong and Mr SIN Chung-kai voted against the amendment.

Geographical Constituencies:

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr

TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr LI Kwok-ying, Mr Alan LEONG, Mr CHEUNG Hok-ming and Mr Albert CHENG voted for the amendment.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN and Mr LEE Wing-tat voted against the amendment.

Ms Emily LAU and Mr LEUNG Kwok-hung abstained.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 23 were in favour of the amendment and two against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the amendment, eight against it and two abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, you can now reply and you have one minute 20 seconds.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, I can only say some words of gratitude in the remaining time. First, I am grateful that many parties and Members have spoken today. In fact, they have spoken not only today, but also in panel meetings and in the media and have effectively advocated reform of the retirement system for senior officers. Today, I heard Secretary Joseph WONG say that he would be putting forward lots and lots of proposals and changes. These changes are exactly the results accumulated by each and every bit of effort made by this Council and friends of all the parties.

From now on, we should monitor the Government's efforts in realizing these changes, in enabling the retirement system of the local Civil Service to regain the support and confidence of the community, and in making the many honest and responsible civil servants of senior and general ranks feel honoured and proud of themselves.

Besides, I feel at this meeting that, despite our different political views, if we can work together in applying pressure on the Government on a specific topic which concerns the community and the livelihood of the people, the legislature can still function effectively and that is also one way to improve people's impression of the legislature. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHEUNG Man-kwong, as amended by Mr TAM Yiu-chung, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands.

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

~~**PRESIDENT** (in Cantonese): Second motion: Opposing collusion between business and the Government and transfer of benefits.~~
