

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 14 April 2011

The Council continued to meet at Nine o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE HENRY TANG YING-YEN, G.B.M., G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE JOHN TSANG CHUN-WAH, G.B.M., J.P.
THE FINANCIAL SECRETARY

THE HONOURABLE WONG YAN-LUNG, S.C., J.P.
THE SECRETARY FOR JUSTICE

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

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

THE HONOURABLE TSANG TAK-SING, G.B.S., J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

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

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, G.B.S., J.P.
SECRETARY FOR DEVELOPMENT

MR GREGORY SO KAM-LEUNG, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

MR ROBIN IP MAN-FAI
HEAD, CENTRAL POLICY UNIT

MS JULIA LEUNG FUNG-YEE, J.P.
UNDER SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

MR YAU SHING-MU, J.P.
UNDER SECRETARY FOR TRANSPORT AND HOUSING

PROF GABRIEL MATTHEW LEUNG, J.P.
UNDER SECRETARY FOR FOOD AND HEALTH

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

CLERKS IN ATTENDANCE:

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

BILLS**Committee Stage**

CHAIRMAN (in Cantonese): Good morning, Members. Committee now resumes. I believe it would not be possible for us to finish all the items on the Agenda this morning. In order to enable Members to attend the scheduled luncheon with the Chairmen and Vice-Chairmen of District Councils, I will suspend the meeting at 12.30 pm and resume it at 2.30 pm.

We will now continue to deal with the Committee stage amendments of Appropriation Bill 2011 proposed by the Financial Secretary regarding head 106. Does any Member wish to speak?

APPROPRIATION BILL 2011

DR JOSEPH LEE (in Cantonese): Good morning, Chairman. We are having a heated debate on the \$6,000 cash handout in this Chamber. In fact, over the past week or two, I learnt that my friends, members of my profession and even the elderly persons have been discussing the \$6,000 cash handout. The Government originally proposed to inject \$6,000 into the Mandatory Provident Fund (MPF) accounts, but the proposal has been revised to hand out \$6,000 to Hong Kong permanent residents aged 18 or more. People have divergent views in the course of discussion. Some people said that the cash handout is unfair and would give rise to discrimination, while some queried why the Government proposed to spend such a large sum of money to hand out \$6,000 for all Hong Kong people, instead of using the money to improve people's livelihood, like providing better healthcare, education and elderly welfare services.

My friends and members of my profession have engaged in heated discussions, and they finally came up with a very interesting question: What is the problem of the Government's handing out of \$6,000 to us, who are eligible for the handout? No one can answer. People may also ask: Are we going to receive the \$6,000? No one has refused to receive the cash handout. As far as I understand, the issue under discussion is not how the Government will hand out the \$6,000, but the Government's proposal to take this opportunity to hand out \$6,000 to all eligible people. Although my friends and members of my profession have expressed different views on the approach adopted by the

Financial Secretary in this case, they see eye to eye on two questions, that is, what is wrong with the \$6,000 cash handout to us and whether or not we should accept the \$6,000. No one thinks there is any problem, and nobody has refused to receive the cash handout.

Some people have decided to donate the \$6,000 upon receipt. Yesterday, someone rang me up after listening to this Council's debate on the amendment concerning the euthanization of cats and dogs, and told me that he decided to use the \$6,000 to sponsor cats and dogs. Yesterday afternoon, a group of students came to discuss with me about the \$6,000. One student said \$6,000 was a significant amount. Since it cost him \$20 to have lunch at the Open University, he could pay for 300 lunches with \$6,000. We can therefore see that different people will have different ways of spending the \$6,000. Being a teacher, a representative of my profession or a friend, I respect their views.

No one thinks that there are problems handing out \$6,000 to us, and nobody has refused to accept the money. And yet, the proposed cash handout to all members of the public does involve a large sum of money. My friend has put forth a pretty unrealistic proposal. After handing out this huge sum of money, would the Financial Secretary consider allocating the same amount of money for improving people's livelihood, say, improving the welfare services for the elderly, as well as healthcare and education services. It would make everybody happy if the Financial Secretary really accedes to this request and allocates a similar amount of money for these purposes.

One may ask, given that the Government's proposed handout of \$6,000 to everyone will use up a large sum of money, does it mean that a certain amount of money will be taken from other areas, thereby resulting in a reduction of welfare services for the elderly, as well as education or healthcare services? Another friend also asked me, would the handout of \$6,000 result in a longer waiting time for public hospitals services from one month to one year? Or, would the Government cut the resources allocated to education such that students could no longer receive grant and loan? I cannot answer these questions. I have never heard that the Government would do so. Neither is there any mention of a reduction of benefits in the 190-odd paragraphs of the Budget.

As Members have said, the \$6,000 cash handout is not in any way contradictory to other policies. Of course, we may chide or criticize the Government's approach, but there is downright no problem with the handout of

\$6,000 to eligible people like us. I have also pondered on this question, and have collected views from my friends, members of my profession and elderly people, and the conclusion is that they do not consider that there is anything wrong with the \$6,000 cash handout, nor would anyone refuse to receive the money.

I finally made up my mind. In this case, I have no reason to oppose the Government's handout of \$6,000. I cannot say, on behalf of my profession and friends, that we are casting a vote on the proposed \$6,000 cash handout but not other issues. It is also not our intention to criticize if what the Financial Secretary did was right or wrong. After all, no one has objected to the handout or refused to receive it. I will therefore vote in favour of the motion. I really do not think that I am in a position to vote against the proposed handout of \$6,000. The money can be used in different ways, and some people even jokingly said that they would buy a new iPad to cheer themselves up. I am not in a position to stop anyone from receiving the \$6,000. Given this point and consideration, I will vote in favour of the motion.

When I spoke two weeks ago, I mentioned that out of the 190-odd paragraphs of the Budget, about 10-odd paragraphs touched on issues relating to healthcare, elderly services and education. Funding has been provided for these areas. So, there is no reason for me to oppose this Budget, criticizing its feasibility and sufficiency. Whether the provision is sufficient or not is indeed another issue, but the Government has actually provided the necessary funding. Of course, the Financial Secretary could have done better in his approach and in dealing with people's livelihood.

I therefore abstained from voting during the Second Reading yesterday. However, the amendment concerning the \$6,000 cash handout is a slightly different case where no opposition has been heard. Under this circumstance, I really do not see any reason for opposition. I will therefore vote in favour of the motion.

Thank you, Chairman.

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

DR MARGARET NG (in Cantonese): Chairman, after listening to Dr Joseph LEE's speech, I consider it necessary to clarify one point. The two questions raised by Dr Joseph LEE actually involve two perspectives. The first question is, whether recipients of the \$6,000, regardless of their background, can make good use of the \$6,000 handed out by the Government? The second question is, should the Government hand out \$6,000 in this way? They are different questions. Even if members of the public do not know how they will receive the \$6,000, they would have their own way of spending the money after all. While some people have a genuine need for the \$6,000, some merely use it to cheer themselves up. This is nonetheless not the consideration of this Council today. The purpose of this Budget debate is to discuss whether it is appropriate for the Government to revise the Budget to hand out \$6,000 to each person. While how people is going to spend the \$6,000 is a personal decision, whether the Government should hand out \$6,000 in this way is a matter of policy, it involves a decision-making process and principle. Why would the Civic Party vote in this way? This is precisely because Although we appreciate that people are free to decide how the \$6,000 would be spent, it is inappropriate for the Government to propose an amendment to revise the Budget. Therefore, we cannot support the proposal.

Just now, Dr Joseph LEE raised one question — his friend asked whether the proposed cash handout is contradictory to other policies? This is exactly the question which we would like to put to the Financial Secretary — In case there is strong public resentment against the Budget after its announcement, and the Government wished to return to the right track by making revisions, it should do it "properly" by going through the necessary procedures, such as appropriate consultation and explanation. Also, particular attention should be paid to whether or not the approach is contradictory to other policies. As mentioned in the speech made by the Financial Secretary in proposing the relevant amendment, they could only introduce one-off but not long-term measures, so as to avoid increasing the burden of the future Government. This may give rise to the problem of contradictory to other policies. Is he suggesting a new approach? That is, in future, the Government will first decide on the amount of cash handout, consideration will then be made to see how the balance should be allocated among other policy areas. If it is the wish of the general public to receive cash handout from the Government whenever possible, does it mean that calculation will be done in a reverse manner? As these questions are policy matters, the Government should give a clear explanation.

Therefore, Chairman, we handled the matter in this way simply because whenever revision has to be made to the Budget, the Financial Secretary must follow a proper procedure. He should perhaps give a briefing to the Legislative Council on the revision to consult Members before a decision is made. This time, unfortunately, as the Chairman may also be aware, the Government had unilaterally met with some Members and made an announcement. Although the Finance Committee had requested the Government time and again for a briefing on the detailed policy, it refused to do so.

I therefore consider that the two questions raised by Dr Joseph LEE today are very good. They give us an opportunity to further reiterate the need for the Government to go through the official procedures and explain the implication of the revision on other government policies, once it has decided to do so. The Government must give an account on how money would be spent to deal with other policies and whether the relevant result would contradict with other policies. These questions need to be debated. Many of us, including me, are very concerned that people might be made to think that they are entitled to the unspent money of the Government. If this is really the case, they may go even further to ask how much the Government should spend. In case the Government has surplus, should the money be distributed to the public in the first place by all means, or should it be used for the implementation of long-term policies? This is the balance to be struck when formulating the budget. I hope that the Government will not do this again. However, judging from the principle and policy, we do not support the Government's present approach. Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, I will now call upon the Financial Secretary to speak again.

FINANCIAL SECRETARY (in Cantonese): Chairman, the reason of proposing an amendment to add subhead 789 and increase head 106 by \$7.1 billion to

\$58.831 billion, is mainly to reflect the additional expenditure required for 2011-2012 after offsetting the \$24 billion earmarked for injection into the Mandatory Provident Fund accounts in response to a revision proposed by me in respect of expenditure.

Last night, a Member mentioned that the proposed handout of \$6,000 to eligible people might involve a sum of money accounting for more than 80% of the total budget of this financial year, so it is doubtful if people can promptly receive the cash handout. I wish to point out that this is not going to happen. In fact, we are devising the plan and once the details are finalized, the Policy Bureaux concerned will submit proposals to the relevant Legislative Council panels for discussion in accordance with the established procedures. Subsequently, approval will be sought from the Finance Committee for the proposed \$37-billion commitment. Once approval has been sought from the Finance Committee, we will expeditiously implement the relevant schemes and receive applications. I wish to point out that the \$37-billion commitment would be sufficient to pay for the total expenses required for the implementation of the relevant schemes. If the required cash flow is higher than expected in this financial year, we will act in accordance with the provisions of the Public Finance Ordinance and ensure that all eligible people can promptly receive the cash handout.

The proposed revision to the Budget is indeed a response to public request for leaving wealth with the people. I therefore again sincerely request Members to support the amendment so that members of the public can benefit from this initiative.

Thank you, Chairman.

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

(Members raised hands)

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

(No hands raised)

Mr Albert HO rose to claim a division.

CHAIRMAN (in Cantonese): Mr Albert HO rose to claim a division. The division bell will ring for three minutes.

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

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

Dr Raymond HO, Dr David LI, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Mr Albert HO, Mr Fred LI, Dr Margaret NG, Mr James TO, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE CHAIRMAN announced that there were 46 Members present, 34 were in favour of the amendment and 11 abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the amendment was passed.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the increased sum for head 106 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Head 122.

MR JAMES TO (in Cantonese): Chairman, I move that head 122 be reduced by \$46,060,000 in respect of subhead 000. Chairman, the said \$46,060,000 is actually equivalent to the estimated full-year expenditure for the Complaints Against Police Office (CAPO). As this matter has been raised and debated under the yearly Appropriation Bill over the past 12 years, I am not going to elaborate on it.

However, I still hope that colleagues will understand one point. As the CAPO is not independent of the Police Force, we cannot get our money's worth. Under the system of investigation by peers, the result lacks credibility. The Government always brags about its effectiveness because it has locked itself in a bird's cage and buried its head in the sand like an ostrich. That is why it considered the system effective, but in fact Chairman, the Secretary for Security is not present at the meeting.

CHAIRMAN (in Cantonese): Please continue with your speech.

MR JAMES TO (in Cantonese): Okay. The CAPO is actually operated on the basis of one's own mates investigating their peers. If the result reflects that a complaint is unsubstantiated, the complainant might think that this is attributable to the system of investigation by peers. The fact is that presently, a great majority of complaint cases are unsubstantiated. Of course, the Government may say that the Independent Police Complaints Council (IPCC) — whose Chinese name has changed from "警監會" to "監警會" — would review on the cases. However, as I have said, the IPCC is a "three-nos" organization. Without investigation power, the IPCC has encountered great difficulties, that is, it is always under the influence of the CAPO, which is not independent.

We all know that in a complaint case, it makes a big difference if a sentence in a statement, an observation or a phrase is missed out. As we can see, in court proceedings, many cases were initiated because of a sentence in a statement. If a case fails to convince the CAPO in the course of investigation, any review of the papers would be to no avail. The most ridiculous thing is that the IPCC thought that it could interview the witnesses, but it turned out that even interviews with the police officer under complaint were denied. In my view, the Commissioner of Police, being the head of a division, should order the police officer under complaint to meet the IPCC. However, he can refuse as he has the right to do so. This is too ridiculous. Since the entire monitoring system of the Police Force was proposed by the Government and even the Commissioner of Police is subject to this system, how can he say that the police officer concerned can attend the interview at will? Just think about it, the IPCC has no statutory power to interview the police officers under complaint, no power to pass a verdict and no power to impose sanction, how can this "three-nos" organization find any

clues just from the written records? Even if flaws are identified, such as inappropriate investigation methods, the IPCC can only request the CAPO to re-investigate. And if the result remains unchanged, nothing can be done. There have been cases where the IPCC was not convinced of the final results, but nothing could be done.

In fact, the system of peer investigation has plenty of room for improvement, but the Government has imposed many limitations and no compromise has been made so far. The power of second investigation mentioned by me, which means that the IPCC could conduct another investigation if the first investigation carried out by the CAPO was considered inappropriate, was not supported.

Regarding the power of passing a verdict, there are many unsubstantiated cases. Former IPCC Chairman Mr Ronny WONG, a senior counsel, was appointed by the Government. After holding the post for six years, he once told Legislative Council Members on a public occasion that the work of the IPCC and the CAPO were, his exact wordings were "sweeping cases under the carpet". The IPCC merely selects cases for review randomly. Sometimes, a case was randomly picked, and investigation was carried out to see if it was substantiated. However, Members should bear in mind that Mr WONG, the former IPCC Chairman, was the front-line official appointed by the Government to monitor the CAPO. According to the concluding remark made by him after holding the post for six years, the entire system was nothing but a scam. It was established to cover up and eliminate complaints. His exact wordings were "eliminate those complaints". If the IPCC is so competent and capable, it can identify faults among the numerous complaints, the complaint might have a chance of being substantiated. And yet, the case can again be unsubstantiated after re-investigation. The former IPCC Chairman's blatant disclosure of its internal problems and the lack of credibility of the system of peer investigation, are actually serious accusations against the IPCC.

While the Government brags that the system is effective, the former IPCC Chairman responsible for front-line monitoring said that it was "lame". Even though it has now become a statutory body, what purpose does it serve? The said \$40-odd million would be to no avail. The money used to establish the IPCC for monitoring would also be to no avail. If the system does not undergo any drastic changes, even if front-line police officers are genuinely wrongly

accused, we can never return justice to them as they are declared innocent by the CAPO, a body which has no credibility and is operating on the basis of investigation by peers. The officers concerned would still suffer from unredressed injustice, and people would still be suspicious of them. While the officers cannot get their names cleared, members of the people are not dissatisfied as well.

No wonder why many people no longer lodge complaints to the CAPO in recent years. Let me cite a simple example. Recently, a female protestor disclosed in a newspaper how she was beaten up by the police. The Government then asked her to lodge a complaint to the CAPO, which she totally distrusted. After the Lee Tung Street incident where naked search was conducted, the authorities have actually reformed and improved the system. Yet, the Government merely called on people to lodge complaints to the CAPO, without realizing that people have lost faith in the CAPO. How would people lodge complaints in the absence of a credible system?

In fact, the CAPO is a body to eliminate complaints against the Police Force. According to some people who intended to lodge complaints for being beaten by the police, police officers had sweet-talked them in hospital. When they lodge a complaint, the police officers asked them if they intended to pursue through criminal or civil proceedings. If they indicated their wish to pursue, the police officers would defer taking statement. In case the complainants asked for an explanation, the police officers would tell them that the case would be transferred to another investigation team after the statement was taken.

This institutional problem arises simply because the CAPO is not independent of the Police Force. If a complainant indicates his wish to pursue through criminal or civil proceedings, the statement-taking process would be deferred. Or, to put it reasonably, even the lawyer of the complainant advised him not to take statement for the time being.

Just think about it, if the CAPO is an independent body like the Independent Commission Against Corruption (ICAC), the taking of statement should not give rise to any problem as the ICAC would not pass the statement to the Police Force for no reason. This is a structural problem that cannot be resolved.

It goes without saying that the Government is happy with this structural problem, so does the Police Force. Why? Because if the complainant indicated his wish to pursue through civil or criminal proceedings, it would mean that no investigation is necessary and a procrastination approach will be adopted. After one or two years, perhaps the complainant might have forgotten the entire case or he might not be angry anymore; by that time, there would be one less complaint case.

Furthermore, the CAPO has a pretty high rate of withdrawal of cases. The Government still cannot give a reasonable explanation as to how the system can be improved. Things are simple indeed. As I said earlier, after taking a statement from the complainant, the CAPO will immediately forward the statement to the unit of the police officer under complaint. Nonetheless, the police officer under complaint might be handling certain cases. If the CAPO is an independent organization, this will not happen.

There has been a recent trend that complainants were often very agitated. They realized that it was futile to lodge complaint to the CAPO because its investigations were fruitless. There were no justice and fairness. What did they do then? They initiated civil proceedings on their own. However, not all complaint cases against the police can be pursued through civil proceedings. And yet, if possible, they would rather apply for legal aid and initiate civil proceedings. Why? Because the burden of prove on civil proceedings is not as demanding as criminal proceedings.

In response, the Government adopted a very simple approach, and that is, giving "hush money" — which is settlement. If the complainant requests \$500,000, it will give him \$250,000 as "hush money" for settlement. This is the price for the abuse of power by the Police Force; in this way, the complaint is swept under the carpet. The details are not even known to the IPCC. This is what the former Chairman Mr Ronny WONG said.

Even the IPCC would want to know if structural problems do exist, which has departed from the police complaint system, with the use of "hush money" to sweep complaints under the carpet. Do the few substantiated cases of complaint against police officers mean that the Police Force is disciplined and rarely abuse power? The complaints have actually been covered up.

Chairman, I am aware that the media might query why the matter has yet to be resolved after more than a decade's discussion. In fact, an independent CAPO can ensure fair treatment to both members of the public and the police officers under complaint. The present peer investigation system only encourages covering up of complaints year after year, thus making people very agitated. Therefore, when complainants inform Members about their complaints against police officers, they are pretty frustrated. This kind of injustice is not uncommon.

The complaint cases may not have serious implications on the complainants, but sometimes they are not fairly treated. The CAPO has even made use of the system to make fun of the complainants by first giving them a reply, and then informed them that the case was not substantiated.

Chairman, after all these years, I have noticed a phenomenon. After discussing with some police officers, I noticed that the officers at the middle and senior level began to admit that the system could be reformed. However, there is a prerequisite for reform: If an independent complaint body like ICAC is to be established, will they have the right to remain silent? I said, "Sure, no problem." This is because the ICAC also allows people to remain silent. And yet, one has to decide for themselves whether remaining silent is to their advantage. If the police officer under complaint remains silent and the independent body — a genuinely independent body but not one operated under the system of peer investigation — if an independent body handling complaints against police officers is able to collect useful evidences, he would be prosecuted. The case is considered substantiated by the investigating body, but the complainant chooses to remain silent.

I think it is fine for them to have the right to remain silent. Even if police officers are ordered by their supervisors to give a statement, what will happen then? The police officer under complaint must attend the interviews arranged by the CAPO because someone of one rank higher will take the statement for him. For instance, a Sergeant will take statement for a Police Constable, and an Inspector will take statement for a Sergeant.

However, what is most ridiculous is that, as I have just said, the police officer under complaint may refuse to attend the interviews arranged by the IPCC. The Commissioner of Police said that the officer should have the right to

choose not to attend the IPCC interviews. Do Members think that this is awfully ridiculous? This is nonetheless the present situation.

If nothing is done to drastically reform this non-credible system, the said \$40-odd million and other expenses of the IPCC would be spent in vain. Although this is the 12th year, our society remains unjust so long as the structural problem remains unsolved.

Mr James TO moved the following motion:

"RESOLVED that head 122 be reduced by \$46,060,000 in respect of subhead 000."

MS EMILY LAU (in Cantonese): Chairman, I speak in support of Mr James TO's amendment. As Mr James TO has said, this matter has been discussed year after year, but nothing has changed. This might be attributable to the authorities' reluctance to listen to our suggestions, or police officers' opposition to the establishment of an independent CAPO, which have been agreed by many Legislative Council Members. In fact, the system of peer investigation utterly lacks credibility.

Chairman, yesterday the Legislative Council's Committee on Members' Interests submitted a report on the complaints against Mr LAU Wong-fat. As some people may criticize that this case is investigated by peers within the Legislative Council, we indicated at the press conference held yesterday that we had requested the Legislative Council Secretariat to conduct a research on the practices of other places and parliaments with regard to the party responsible for investigating councillors. We hope that the Secretariat can complete the relevant research as early as possible.

I strongly agree that there should be an independent Commissioner to conduct such kind of investigation, and the Legislative Council should also assign a committee to study the Commissioner's report. The Commissioner concerned must be independent, objective, impartial, and possess the relevant qualifications. I hope that the authorities would understand that the investigation of Members is a very important task. Should we establish a system of international standard to deal with the numerous complaints against police officers?

Chairman, I am sure you are also aware that the authorities will soon submit a report to the United Nations Human Rights Committee. Before the handover of sovereignty, the Human Rights Committee had queried why Hong Kong did not have an independent system for the investigation of public complaints against the Police Force. They suggested that Hong Kong should have an independent statutory mechanism to make legally-binding recommendations. Chairman, if we use these criteria to assess the operation of the present Independent Police Complaints Council (IPCC), we will find that it is a completely different story. According to Mr TO, the former IPCC Chairman had made many criticisms against it. Even the incumbent IPCC Chairman A few months ago, I invited the incumbent IPCC Chairman Mr JAT Sew-tong to appear on my web television for an interview — my web television requires no licencing, and whenever he was invited to appear on web television, he would always ask if they are licenced, fearing that he would be arrested. What did he say? He had some grudges. I believe the Secretary is also aware of this as we have submitted some information for his consideration. Mr JAT said that the IPCC did not have adequate manpower and the office space was insufficient, and he felt very frustrated. I am sure Members should know that Mr JAT Sew-tong is a straight and outspoken person. So, I hope that the authorities would genuinely Even if they are staging a show, they should act like a real one.

Furthermore, some Legislative Council Members are Vice-Chairmen of the IPCC. Perhaps they can share with us what actually they have done given that they hold so many public offices. Can they really help monitoring those cases? The IPCC also has an Observers Scheme. When the matter was discussed last year, we learnt that observers rarely present during the interviews. So, does the Secretary bring us any good news this time?

It is easy to tell whether the existing system is fair or unfair. And yet, justice can hardly exist under strong power. Chairman, we are not saying that whatever actions undertaken by the Police Force are wrong. Sometimes, the Police Force did provide us with some information to show that they enjoy high recognition, and the public are satisfied with their work. We got it. Perhaps some police officers have done a good job. Our question is, in case there are complaints against the Police Force, whether they are substantiated or not, we still hope that investigation can be conducted under an independent, impartial, objective and professional mechanism. Chairman, such a request should not be considered demanding by the United Nations or anywhere else in this world.

Yet, the authorities have been so reluctant to accede to this request. They said that it was not necessary with the presence of the existing mechanism. I believe the Secretary will probably read out last year's speaking note again. Recently, I read from a newspaper that the front page reports of the *People's Daily* on the meetings of the Chinese People's Political Consultative Conference and the National People's Congress was the same for last year and this year, the only change was the year of the meetings. I hope that the Secretary will not act like that.

Chairman, even if Mr James TO's amendment is negated, the Commissioner of Police, Secretary for Security and the entire executive authorities have to be accountable to us and to the international society. I have once suggested to Mr JAT Sew-tong, Chairman of the IPCC to draft a report for submission to the United Nations after its hearings. While the Administration would definitely submit a report to the United Nations, it might have its own interpretation. Given that the IPCC is now a statutory body, will it consider drafting a report on its own, or will Mr JAT make a trip to the United Nations in person? Mr JAT said he would consider my suggestion. I do not know if he will attend the hearings of the United Nations, it is normal for organizations of this kind to attend the hearings. The chairperson of the Equal Opportunities Commission has attended each of these hearings, so did the Chairperson of the Women's Commission. Since these statutory bodies were appointed by the Government to carry out monitoring work, and the United Nations will soon conduct hearings, I would like to repeat my suggestion again on this occasion. I hope that IPCC Chairman Mr JAT Sew-tong will proactively consider drafting a report for submission to the United Nations. Also, I would like to ask him to review the relevant proposals put forth by United Nations Human Rights Committee over the years and, in the report to be submitted to the United Nations, state whether Hong Kong's mechanism has responded to the recommendations of the United Nations. If not, I hope that he would tell us what to do either in the United Nations or in Hong Kong.

With these remarks, I support Mr James TO's amendment.

DR JOSEPH LEE (in Cantonese): Chairman, the issue under discussion today is whether the provision to the Complaints Against Police Office (CAPO) should be cut, and just now a Member mentioned the Independent Police Complaints Council (IPCC). First of all, I would like to declare that I am a Vice-Chairman

of the IPCC. So, I am going to talk about the IPCC and certainly I would touch on the CAPO.

Is the CAPO operating on the basis of one's own mates investigating their peers? I believe this is another issue worth discussing. I recall that when the Independent Police Complaints Council Ordinance was discussed during the last term of the Legislative Council, it was a very hot topic for discussion. Members suggested that Hong Kong should establish an independent investigation committee tasked to investigate the abuse of power by police officers. I consider this a general direction that has been agreed by everyone. However, under the current arrangement, complaints will first be handled by the CAPO. The IPCC, being a statutory body, is vested with the statutory power to request the CAPO to conduct re-investigation in case injustice and unfairness were identified in the course of the complaint handling process.

Is it tantamount to the power of second investigation mentioned by Mr James TO earlier? According to my years of experiences, I think it is right to say so. With the vested power, the IPCC can absolutely arrange interviews with the complainants, complainees and other witnesses for general clarifications, and examine if there is injustice or partiality during the CAPO's complaint handling process. I have just received a pile of documents handed to me by my IPCC colleagues. Certainly, I cannot disclose the details, but I just want to mention a case about a complainant feeling dissatisfied after lodging a complaint. The IPCC currently has more than 20 members, including Chairman JAT Sew-tong mentioned by Emily earlier, and we examine complaint cases every day. As members of the IPCC have different background, including lawyers, they would point out if the CAPO has handled the complaints in a fair and just manner. If we find any problems, we will revisit the complaint case concerned. Under this circumstance, the CAPO actually does not have the right to say no. Why? Because we are empowered to request the CAPO to take actions. If the CAPO refuses to co-operate, the situation will become complicated. What will happen then? We will exercise our power and report its wrongdoings to the Chief Executive. The case will then be passed to the Secretary. This is the mode of operation of the entire mechanism. The question is not whether the CAPO is operating a system of peer investigation. In my opinion, the objective and mission of the IPCC is to ensure that complaints lodged by members of the public against police officers are handled by the CAPO in a fair and just manner. This is the first point.

The second point is, in case members of the public are dissatisfied with the handling of the CAPO, they can complain to the IPCC direct. We will certainly look into the complaint as the IPCC has the statutory power to investigate whether the CAPO has any cover-up. For instance, Joe rang up the CAPO of a certain district to complain against a police officer, but it later denied the receipt of the complaint and no file has been opened. In that case, the CAPO has violated the rules and the IPCC would have to investigate into the case. We would also examine if the CAPO has handled the case in a fair and just manner.

The third point is, if, as Mr James TO has said, people have lost faith in the CAPO, and they do not have money to pursue civil proceedings despite feeling dissatisfied and aggrieved that they are victims of police officers' abuse of power, they can, under this circumstance, lodge complaint to the IPCC direct. Although the IPCC is not empowered to handle this complaint, it can ask him to take the first step of lodging a complaint to the CAPO. There is a common saying, "Please open a file at the CAPO first." We will subsequently be notified and follow-up actions will be taken to investigate if the police officer concerned has abused power.

The above three actions can be taken by the IPCC after the enactment of the Ordinance. Is it possible that we have not done enough? Here, I I will soon leave the IPCC. I think we have been working in accordance with the law, and each member has been working with great devotion. Also, there is the Observers Scheme, and I have once been an observer. Under the Scheme, IPCC officials will conduct surprise visits at the CAPO without prior notification. During the visit, we would observe how CAPO staff conduct interviews with witnesses and police officers. During our observation of the complaint handling process — I am not sure if they are acting — but my experience told me that they have been working very seriously. After the observation, a report will be submitted. Is this a well-established scheme? As far as I am concerned, the IPCC has performed the function of monitoring the CAPO.

Do we need to establish an independent committee to investigate police officers? This is another issue. But if Members have any misunderstanding about the IPCC, I hope that the above clarification will enable them to understand the functions and importance of the IPCC in CAPO's work. If we suddenly cut all the provisions of the CAPO due to some misunderstandings, it can no longer perform its function and investigate into complaints, I have to ask, without the

CAPO, where can members of the public lodge their complaints? As the IPCC cannot conduct direct investigations, to put it bluntly, the IPCC can simply "wind up", as advocated by Mr James TO just now. It does not matter, we can disband it, but where can people turn to when they are dissatisfied with the behaviour of police officers or their abuse of power? These are the problems and conflicts which I foresee. Being the Vice-Chairman of the IPCC or an ordinary member of the public, I think that the provision of the CAPO should not be cut. Thank you, Chairman.

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, this problem can be traced back to Hong Kong's pride, that is, the Independent Commission Against Corruption (ICAC). Before the establishment of the ICAC, there was an Anti-Corruption Branch, under which police officers were also investigated by their peers. This was called a "coffin nail". Why was it so called? Because the fate of the police officer under investigation would be "hammered" under the system of peer investigation. In fact, it was very difficult to have substantiated cases. Should there be substantiated cases, the complainee concerned would most likely be "condemned", either to be accountable or to allay public resentment. These coffin nails would certainly "hammer" the complainees, but they were rarely used. This was the problem at that time. Later, some students staged a protest and were arrested, arousing strong public resentment. The resentment was further fueled when a "name list" was found, and it was disclosed that someone had been acting as "bribe collector", distributing bribe money. It was found that the previous practice was unsatisfactory, and the system of peer investigation did not work at all. In fact, only a handful of people had been "hammered" by coffin nails, and that is why the ICAC was established.

At that time, we had also asked the same question: What would happen without the Anti-Corruption Branch? Would corruption be encouraged? Such a mode of thinking has dominated this Council. If the current system does not work, what will happen if this system is destroyed? Would this give rise to anarchy? In many cases, the present situation is in a state of anarchy. The question is, even if a system has been put in place to investigate cases of misconduct and abuse of power by police officers, should it be independent of the Police Force? This is a very important question.

What kind of system do we have at present? It does not matter, it is a system under which one's own mates investigate their peers. If the "coffin nails" are not properly hammered, there is the "King of Hell" to monitor the situation. If the "coffin nails" are not well hammered, if the "two deities-guards of Hell" fail to do the work, there is still someone to monitor the situation. Why do the "two deities-guards of Hell" not look for those bad guys? Bad guys should die.

This system sounds not bad — it was previously called the Independent Police Complaints Council (IPCC) (警監會), but the Chinese name was later changed to 監警會. Yet, whatever the name is, its nature has not changed — the problem lies in the deficiency of the Budget. One day, Senior Counsel Ronny WONG came to us in grief, it turned out that the Police Force asked him to "lend a helping hand"; some civil servants were recruited, and a secretariat was formed under his charge. However, this actually did not work. Do you know why? Because there are too many complaint cases. I wonder if Members returned from direct election have received complaints about being bullied by police officers. What should we do then? We would repeat what has been said today, they would be asked to lodge complaints to the Complaints Against Police Office (CAPO) as Members can do nothing at all. I am the best example. Being a Member, I have also been arrested by the police. How then could I do justice for other people if I was arrested? Therefore, people all turned away. They thought what I said was right as the police also arrested Members. That is why all my cases had been transferred to Mr LAU Kong-wah, because "Long Hair" said the police also arrested Members. If they are arrested, they cannot see justice done. That is why some of my cases have gone. People began to understand after my explanation. The Police Force, though a state apparatus, sometimes does not function properly or it intentionally does not function properly, am I right?

The question under discussion today has only two solutions, and one of them is police officers investigating their peers. However, the monitoring apparatus of the system concerned is actually compatible with or even better than the system, which is beyond doubt. The question which Members of this Council have discussed so heatedly is: Why would the Legislative Council with so little resources be tasked to monitor the Government with so many resources? Strenuous efforts have been made to argue for this issue. When Chairman was an ordinary Member, similar remarks had been made. The Legislative Council only has little resources, and our Secretariat staff is always overloaded with work.

I heard that the investigation work of the Lehman Brothers incident was so massive that some Members wanted to call for a halt. If the investigation continues, the relevant report can never be compiled. This is the question which we have been discussing using our logic. How come the same logic cannot be applied to an issue concerning excessive police powers, which is closely related to the right of people?

This is inconsistent with our status as Legislative Council Members, right? The Government has plenty of resources, but we are tasked to monitor it with our limited resources. This is really too sad and tough. The Government is late in submitting paper, we voice our disapproval. "Are you going to attend the meeting?" The submission of papers is late for a couple of days, we would again ask, "Are you going to attend the meeting? If meetings are not held, the progress is being impeded." I do not understand, for an organization which adopts the system of peer investigation, why do we still give credit to it, saying that we trust in it. While trust is an important factor, you should identify an effective gatekeeper. The IPCC must be so powerful as to overshadow it, just like a rascal standing at its back with a stick in hand. This stick must be able to scare it. However, this is not the case. Since the establishment of the IPCC and the enactment of the relevant ordinance, the imbalance situation has remained unchanged. A balance has yet to be struck between the monitoring body and the body being monitored.

How powerful is the IPCC? Take a look at the office of the IPCC and the duties of the IPCC Chairman. Apart from taking legal action for the Government, JAT Sew-tong I had once lost a lawsuit to him regarding minimum wage. He was subsequently rewarded and became the Chairperson of the Minimum Wage Commission, and he is now the Chairman of the IPCC. I know that he is very smart, but we human beings do have a limit. Eating, defecating and reading are all physiological necessities, thus the time left for engaging in public office is limited. What is more, he has his own profession. As we can see, the system is corrupted. He was once responsible for the legislation of minimum wage, but things have not been going on well. He was then tasked to head the IPCC. Is this a problem with the system? This is just a stopgap measure. In other words, if anyone said that police officers should not be investigated by their peers, well, establish the IPCC then. As Dr Joseph LEE has said, he was empowered to interview the relevant parties direct. He has the power to do so. The question is, however, he is not empowered to conduct direct investigation, which means that there are no other bodies for parallel

investigation. Therefore, re-investigation is necessary, just like certain countries where cases were passed back for re-investigation. In Taiwan, for instance, cases were often examined again and again by the Procuratorate and resulted in the present situation.

To me, slashing the provision of the CAPO sounds too crazy. How can the provision be cut all of a sudden? Chairman, however, this should be the right move. If one's arm has rotten, it should be amputated and replaced with a prosthetic arm. If prosthetic limbs are not needed for certain parts, then forget about prosthetic limbs. You may not be able to answer the following questions: firstly, the CAPO has received many cases, but how many of these cases can be submitted? These cases are like fishes swimming against the current, only the strong ones can make their way through and reach the destination. Most fishes, however, have been pushed to the downstream and got killed. Whenever the issue of funding is discussed, Members are given a chance to speak in this Chamber. A lot have been said last night and the speeches were marvelous. Many kaifongs said the debate last night was very interesting.

Chairman, what are we going to examine? What should we do if we think that there may be or there are actually cases of police officers abusing their power? My opinion is pretty simple: first, the case should be handed to a third person for investigation, which definitely involves costs, expenses and power. Yet, the Government has not explored into this possibility at all. It only said that our case is similar to that of certain countries, without explaining why we are not like others. It has never examined, from either the historical or cultural perspective, why some countries are different from us.

Honourable Members, the answer is very simple. Our country — no, it should be our region is very unique, which is marked by colonialism. What is a colony dependent on? It is dependent on the state apparatus. Chairman, our Commissioner of Police is so powerful that it is sometimes as powerful as his supervisor. Just take a look at the number plates of his vehicle, the numbers count from one to 10. Although he is lower in rank than a minister, his number plate is comparable to that of a minister. We can thus see that he is becoming more powerful. This is a historical reason because the colonialists treated the Police Force as the army. Nonetheless, the army should not move freely in the streets as this is injustice ruling. If the army is allowed to move freely in the streets, people will definitely revolt.

According to the culture of our Motherland, public security has the greatest power. This is true from the cultural and historical perspective, which means that there are possible chances of abuse of power. This mechanism is of special importance, and we must protect it as it has been established long ago. Therefore, I think there should be stringent requirement, and society must pay a price for it. We do not need to argue with the Secretary about this. He always asks police officers to spray upwards or downwards. If there is an independent investigative body, is it still necessary for the Secretary to give such an advice? Should there be an independent body, I would not even bother to talk to him and would talk to the person concerned.

That is why I think the organization must be independent. As regards its relations with the original state apparatus, it can be discussed. One should have faith in the state apparatus, otherwise, a revolution would have happened long ago. In this connection, there is a very simple example. Chairman, it has now become a laughing stock. Yesterday, high ranking police officers were deployed to look for an enemy. Why has "Long Hair" not shown up? Why has he not led a group of people to dash into the Legislative Council Building? There is no need for me to do so because I can certainly enter this building. It turned out that they had received some wrong intelligence, claiming that a group of "post-80s" would dash into LI Ka-shing's No. 1 Queen's Road Central instead of the Legislative Council Building. Buddy, the deployment of high ranking police officers for this purpose is already an abuse of power. He should be well aware of this, so he is smiling now. On Sunday, slogans were affixed to the properties of LI Ka-shing. He would complain and would probably say, "If this happens again, I will consider 'letting wealth and fame drift by like clouds'. If the situation does not improve, I will consider reducing my investments." He did say something like this, but only in private this time. Do you think this is scandalizing?

A tourist asked me, "What kind of place is this?" I said that was the Bank of China, referring to the old building. He asked, "Why are there so many policemen protecting the bank? Is there collusion between business and the Government?" I said no. The policemen were actually protecting the property behind the Bank of China. This allegation cannot be substantiated, but I learn it from someone in the Police Force, a righteous guy.

Chairman, this is an abuse of power. If the Police Force wasted manpower after receiving a report from a billionaire, this is an abuse of power and I can lodge a complaint against it. My door was once broken and I reported to the police. The police constable said, "Mr LONG', (*Laughter*) where do you live?" After all, I am a Legislative Council Member, I have some social status and people's mandate, whereas the police officer receives salaries from people. They are paid by the people. Buddy, I feel aggrieved for that police constable. They have been exploited by the Park'n Shop and they have to pay property mortgage. Worse still, their supervisor has received wrong intelligence and protected a "vampire". Love is really too heavy to bear!

I decided to lodge a complaint. And yet, who should I turn to? The CAPO would definitely say that there is no such case. Buddy, this is highly confidential, a top secret. Given that I cannot lodge my complaint, there is no way Mr JAT Sew-tong can pursue an investigation even though he is as smart as Sherlock HOLMES. Without the assistance of Dr WATSON, how could Sherlock HOLMES investigate cases? If the IPCC is now asked to become Sherlock HOLMES, Dr WATSON's assistance should also be provided. Otherwise, how can it proceed with its investigation? In case there are some blood stains, Sherlock HOLMES would go and take a look. Unfortunately, he did not even know that he should put on his gloves, he did not know that he was exposed to the risk of contracting AIDS from touching the blood stains bare-handed.

It is very simple indeed. In my opinion, it is very good to have independent investigation. Mr James TO turns himself into a fool and mockery in this Chamber year after year, asking what he should do if his rotten fingers were being amputated. He should use prosthetic fingers, hopefully not the middle finger.

Chairman, I have finished speaking. I just want to say that it is very respectable for our wise Mr James TO to act like a fool here year after year. Thank you.

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

MR LAU KONG-WAH (in Cantonese): Chairman, I do not think it is necessary to debate this item every year because the Complaints Against Police Office (CAPO) has its value of existence and an independent monitory body has already been put in place. Moreover, we passed a new legislation last year to give greater power to this new statutory body to monitor the CAPO.

Dr Joseph LEE, as Vice-Chairman of the Independent Police Complaints Council (IPCC), has just made a pertinent speech. He recounted the history of the IPCC, how its power was enhanced to secure greater public confidence. If the amendment moved by Mr James TO is passed today, the CAPO will be dissolved, leaving people with no way to lodge their complaints. I thus think that it is irresponsible to move this amendment or repeal the provision.

Chairman, the former IPCC certainly had many insufficiencies, but the CAPO was not perfect either. However, if we take this opportunity to denigrate the CAPO in its entirety, or even belittle it as useless or lame, I think we are unfair to many police officers or even the entire Police Force. They are dedicated and meticulous in conducting professional investigations. Despite the fact that the conclusions reached in some cases are not to the satisfaction of every Member, this does not mean that the Police Force is completely sinister and that all police officers abuse power. I think this remark is too arbitrary.

Do not forget that the Police Force has, as indicated in an opinion poll today, more than 70% popular support, while with much regret to say, Chairman, the Legislative Council only has some 10% popular support. I do not think it is convincing for Members of the Legislative Council who only have some 10% popular support to criticize the Police Force which has 70% popular support. In fact, there is no need to criticize them.

The strongest point stated by Mr James TO is that "peer investigation" is wrong. Apparently, it may be inappropriate for investigation to be conducted by peer officers, but may I ask Mr James TO to consider a few points. First, from the perspective of being a professional investigation team, the Police Force is still very strong in executing this role; and second, the investigation reports completed by the Police Force are subject to another independent review by the IPCC. Dr Joseph LEE, who is the Vice-Chairman of the IPCC, also said just now that they have the right to conduct the investigation again. Hence, this two-tiered structure has already ensured that peer investigation cannot be conducted

recklessly, and abuse of power is not permitted, otherwise it will lead to problems.

Third, if "peer investigation" lacks credibility, as purported by Mr James TO just now, then the investigation result of a Legislative Council Member announced yesterday is also a form of "peer investigation", as just pointed out by his fellow Party Member Ms Emily LAU. How are we going to interpret the latter then? Does it mean that the Legislative Council also lacks credibility? I have not heard Mr James TO make such a comment. Mr WONG Sing-chi of the Democratic Party is also a member of the Committee which submitted the investigation report yesterday. The investigation is also conducted by peer members. Does it mean that the investigation also lacks credibility? Even some time earlier when Mr James TO was challenged for some troubles concerning rents, the incident was also investigated by Legislative Council Members. Why did he not consider the investigation as "peer investigation"? People within his political party are also against each other. I really do not know which side of his story is true?

(Mr James TO raised his hand to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr James TO, do you have a point of order? Please point out your point of order.

MR JAMES TO (in Cantonese): I do not think Mr LAU Kong-wah has told the truth unreservedly? Not just the Legislative Council, but also the ICAC has conducted the investigation.

CHAIRMAN (in Cantonese): Mr LAU Kong-wah, please sit down first. Mr TO, what you have said is not a point of order. You should know that you can speak later. Mr LAU Kong-wah, please continue.

MR LAU KONG-WAH (in Cantonese): Chairman, I know that Mr James TO will be nervous if I mention the case in which he himself was involved. However, if I do not mention that case, I cannot wake him up to the truth. I have only pointed out a fact in response to his criticism against the system of

"peer investigation". There is no right or wrong. I have only pointed out that the case which Mr James TO was involved was also investigated by Members of this Council. This is the point I wish to make. As for practices adopted outside this Council, it is another matter and such practices are not inherent to the mechanism.

Contrarily, in the system of complaints against police officers, there is an inherent monitoring mechanism. The so-called unreserved truth which Mr James TO just rose and spoke about serves to better explain that a comprehensive and systematic monitoring mechanism is already in place under the system of complaints against police officers. Mr James TO just said that the ICAC has investigated his case, but the ICAC is not always involved. This precisely explains the difference of these two mechanisms. According to his line of thought, the system of "peer investigation" of the Legislative Council is even worse than or not as good as the present system of complaints against police officers. What he said has precisely brought out this point.

Hence, while we can certainly discuss whether the practice of "peer investigation" is correct, we can also discuss whether further improvement can be made to the operation of the CAPO and the IPCC. However, using this issue as the reason for repealing tens of million dollars of provision will leave the CAPO unable to operate and the public unable to lodge complaints. I hold that Mr James TO, by moving this amendment every year, has been acting irresponsibly in the past decade or so and I have a cause for saying so.

Ms Emily LAU just pointed out that the system of "peer investigation" adopted in the Legislative Council is undesirable. She asked us to draw reference from countries around the world. Of course, she is frank and honest enough to admit that this is a problem. If she did not say so, she might have double standards. That is to say, Members of the Democratic Party in the Legislative Council have double standards. Nevertheless, she has done a disservice by suggesting that we should find a credible person who is independent to this Council to conduct investigation on Members. What she said has precisely shown that she places her trust on a person. She believes that a suitable person can be found in society as long as he is independent to this Council. This is in fact the rule of man rather than the rule of law. What she said indicates that she does not believe the system, which runs counter to what she has said in the past.

Chairman, as far as the CAPO is concerned, I have also received quite many views and complaints against it from the district. I have been following up and working on the cases closely. If one says that police officers at the CAPO are acting recklessly, sorry, I beg to differ. Even if there are cases which are mishandled, there is still an independent body which can follow up the cases.

Hence, Chairman, I cannot support the amendment and I hope that fellow colleagues of this Council will vote against this amendment. Thank you, Chairman.

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

MR PAUL TSE (in Cantonese): Chairman, originally I do not plan to speak, but as Members have touched on the mechanism of lodging complaints, I also wish to take this opportunity This is only a debate and Members would certainly not expect that it can lead to any substantial effects that may cause the Complaints Against Police Office (CAPO) to cease operation. Some Members have just mentioned that the mechanism itself has the problem of "peer investigation" and I have two points to make relating to this issue.

People who know my background may be aware that I, just like Mr James TO, have been fighting against "peer investigation" over the years. For instance, The Law Society of Hong Kong (Law Society) is the only body among many other professional bodies, which still requires disciplinary hearings be conducted behind closed doors, while other bodies already allow open hearings or allow the accused to opt for the format of the hearing, in order to ensure that sufficient transparency is accorded to the hearing. Of course, Law Society has pointed out that outsiders are invited to sit in the panel on disciplinary proceeding, which usually consists of three members, thus claiming that it has rendered sufficient credibility and protection to its hearings.

Nevertheless, if my memory does not fail me, the Court of Appeal and even the Court of Final Appeal should have indirectly affirmed that when injustice exists in one part of the procedure, or when the procedure is challenged as improper, an appeal mechanism shall generally serve the interest of justice and the mechanism in its entirety shall not be disputed because of deficiency in

individual procedures, provided that the mechanism complies with all requirements laid in the Bill of Rights or dovetails with the protection rendered by the Bill. Like it or not, this is a decision upheld by the present laws of Hong Kong.

Returning to the system of lodging complaints against police officers, Dr Joseph LEE has made the points clear and I need not repeat what he said. In fact, I think many other complaint mechanisms or even the mechanism of the Travel Industry Council of Hong Kong (TIC) is not as good as that of the CAPO, not to mention that in addition to the CAPO, the Independent Police Complaints Council (IPCC) will also review the cases. I thank Dr Joseph LEE for reminding me. Apart from conducting case reviews, the IPCC also has a mechanism to conduct, where appropriate, parallel investigation after a file is opened on a certain case. If I have misunderstood anything, please correct me. This point on the parallel investigation mechanism, however, is quite the opposite of what Mr LEUNG Kwok-hung has said. One of the points he just made is that the CAPO does not have a parallel mechanism for the public to lodge complaints against its decision. He thus regarded this as a major fallacy. I wish to put on the record that his remark is misleading.

In the Budget debate this year or the budget debate every year, Members often express their dissatisfaction about a certain system by repealing the relevant provision, or they may use this approach to illustrate that the performance of a certain establishment is below standard or unsatisfactory. I have reservation about using this approach to promote reform or make a declaration. We all may be dissatisfied about certain departments or establishments, but if we resort to such an approach to vent our dissatisfaction, the debate will never end. Take the tourism industry as an example. I am very dissatisfied about the TIC and the Tourism Board. I believe I can apply this approach on many other establishments. Every Member will have things that he is dissatisfied about, but I believe this Council may not allow this approach. While I certainly respect Mr James TO's good-willed tenacity, which has motivated him to keep on moving such amendments, I think we must review this approach in a balanced and rational manner and see whether there is a better occasion or way to express his dissatisfaction. I do not want to over criticize Mr James TO here, but I hope that we, as responsible Members, can engage in self-reflection. These are the two points I wish to make.

Perhaps, let me say a little more about the way the CAPO is handling cases. A number of Members have just shared their experience about the CAPO. Frankly, I have little direct contact with the department concerned, but in my years as a practicing barrister and solicitor, I have the impression that they are professional and capable of effectively handling valid complaints. Please do not forget that the performance of law-enforcement officers is always being monitored. Sometimes, if I happen to have a traffic accident, I may also have an opinion about the way the police officers have handled the situation. No matter how restrained they have behaved, I may still feel dissatisfied about them. This is just human. Sometimes, I subjectively think that they can be more polite and friendly, that they should not take up too much of my time, and that they should not be too rigid in doing their job. Society is complicated. Criminals come from different walks of life and they often would not be as reasonable or truthful as common citizens. Some front-line police officers remain very professional and restrained even if they have to handle many cases, while some officers are forced or accustomed to handle cases with certain approaches in certain circumstances.

Some people may find these approaches improper, but if the law is effectively enforced Let me cite a simple example. Members know that the legal profession is divided into civil and criminal. Some solicitors or barristers are specialized in civil cases. I think the majority of barristers in this Chamber are specialized in civil cases and that is why they are relatively decorous and reasonable. As a matter of fact, some barristers specializing in criminal cases may adopt a quite different approach. Why? It is because if they talk to their clients like the way Mr Alan LEONG, Mr Ronny TONG, Ms Audrey EU and even Dr Margaret NG talk, as a Cantonese saying goes, their clients will not "succumb to" them. Their clients may still respect the lawyers, but they will not completely identify themselves with their lawyers or tell them the truth unreservedly; nor will the clients feel that their lawyers can truly understand them or help them. Contrarily, if the lawyers talk to their clients like the way Mr LEUNG Kwok-hung talks, their clients will be very happy, feeling that their lawyers are one of a kind. If the lawyers manage to speak vulgarly, their clients will even identify themselves with the lawyers more.

Similarly, if on-duty front-line police officers talk like the way Mr Ambrose LEE talks, I am afraid they cannot enforce the law effectively. Sometimes, we do need to make suitable adjustments, not only to win the other

party's respect, but also to win their recognition and understanding. Of course, police officers are in a much more difficult position because they not only have to be friendly; they also have to sacrifice themselves for the interest of the public and for the overall stability of society in Hong Kong. Hence, in handling complaints, colleagues must not detach themselves from reality and live in a vacuum, demanding that the approach has to be perfect. We also must not presume that the accused police officer must have abused power and that the complainant must be the victimized member of the public.

Certainly, we should not tar all police officers with the same brush. Indeed, there are often cases of power abuse, but I am only asking Members to use their common sense and be rational. When there is a case that needed to be looked into, we will certainly do the best of our part.

However, colleagues should understand that no system is perfect and to err is human. We should understand that the work of the police is very challenging. If we can think from their point of view and put ourselves in the shoes of the law-enforcement officers, it would be easier to understand. The present mechanism of the CAPO and the IPCC is not flawless, but to a certain extent the mechanism is necessary and has its function.

Thank you, Chairman.

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

MS EMILY LAU (in Cantonese): Chairman, I wish to respond to Mr LAU Kong-wah. He has distorted my remark just now.

First of all, I have said that the Democratic Party is not split by disagreements and that we will support Mr James TO's amendment today. I have also said that the Secretariat is now conducting a research on whether we should designate a commissioner to take charge of complaints against Members; and that when the research is completed, the Democratic Party or the entire Council should hold a discussion on the result of the research. As far as these matters are concerned, we have no differences in opinion. The Legislative Council has a mechanism on handling complaints against Members and we are

discussing the mechanism on handling complaints against police officers. It has often been said that these two mechanisms involve "peer investigation". I think it is justified that both mechanisms be reviewed together. As for this mechanism, it has existed for 10-odd years. I think the practice of police officers investigating police officers is unjust. Unlike what Mr Paul TSE has just said, many Members who have spoken do not think that the wrongs are all done by the police. That is why some people would overtly distort the truth. It is not a matter of which party should bear all the blame, but when there is a complaint, there should be an independent, equitable, professional and objective mechanism to investigate the complaint. Hence, when I said just now that a commissioner should be appointed, Chairman, I meant a mechanism. I did not mean to say what Mr LAU Kong-wah has said about me. He said, "Ms Emily LAU said that a person should be appointed and that person should be independent, professional and objective. That is the rule of man." What I said is that we should find a commissioner or a team within this mechanism to take charge of the investigation.

As far as the Police Force is concerned, we have been making this proposal for years Not just we have made such a proposal, Chairman, as I have said, the United Nations Mr LAU Kong-wah cares little about the United Nations. He has not mentioned it at all The United Nations Commission on Human Rights (UNCHR) has proposed for years that complaints against police officers should be investigated by an independent institution and the institution should be empowered to make legal-binding proposals. I very much support this proposal. The UNCHR had made this proposal before the sovereignty handover. Subsequently after the handover, the same proposal had been made by the UNCHR. The authorities are now drafting a report pursuant to the Bill of Rights Ordinance. I do not know how the authorities are going to draft the report, but the report will definitely mention that a statutory body called the IPCC is in place to take charge of this matter. This, however, is not what the UNCHR has proposed. If Members do not wish to hear about or do not want such a proposal, they should voice their opinions. Nevertheless, I have made myself clear. I hope that my remark is not distorted. I hope not and I do not allow it either.

MR LAU KONG-WAH (in Cantonese): Chairman, I have definitely not distorted her meaning and I have listened carefully to other Members' speeches.

Nevertheless, Ms Emily LAU is apt to point out just now a very important point. She said that they did not mean to say that all police officers will abuse power and that not all police officers in the Complaints Against Police Office (CAPO) are hideous. Precisely because of this point, if she is so certain about it, she should oppose Mr James TO's amendment which seeks to repeal the provision in this respect. The provision, if repealed, will annul the CAPO. As such, this is the same as annulling the entire mechanism. I do not think this is necessary.

Moreover, as far as the system is concerned, the present relationship between the CAPO and the Independent Police Complaints Council (IPCC) is precisely They may not need a commissioner. I mean, we may not need a person, but we do need a system. The IPCC is composed of a Chairman, Vice-Chairmen and members of the community. Several Members of this Council are their Vice-Chairmen. If you wish to indefinitely cast doubts on others, you can cast doubts on us, on Dr Joseph LEE, on members of the community, or even on their Chairman Mr JAT Sew-tong. You are cast doubts on everyone.

However, this mechanism already exists, unless you think that it has any problems, but the IPCC In fact, Ms Emily LAU, Mr James TO and I were members of the committee which scrutinized the new Independent Police Complaints Council Ordinance. We are all aware that the new IPCC has made a big stride forward. We have looked into its every procedure in detail and requested that a report be submitted to the Legislative Council upon our request after it has operated for a period of time. By then, if there are areas that have to be improved, we still have an opportunity to do so. Why should we completely stop its operation today? Why do we have to annul its entire provision today? Is this approach somewhat inappropriate?

MR JAMES TO (in Cantonese): Chairman, Mr LAU Kong-wah is very fond of distorting the truth and he has done it again. He just said that if we were sure that not all police officers would abuse power, we should preserve the CAPO. We have never said that all police officers would abuse power. You can take a look at the information of the debates in the past decade or so that I have. I am sure that every year I said "some black sheep". There are records for verification.

The point is, we need to have a credible system to identify some black sheep or the police officers being complaint. Presently, the biggest problem is that if we do not have a credible system, as I have said in my main speech, we cannot even clear the doubts and restore the innocence of police officers who have not abused power but have been wrongly accused. This is where the problem lies. Hence, before Mr Paul TSE became a barrister, he had handled criminal cases. I also sought help from him. He should thus be well aware of the problems with the present system of complaints against police officers.

Chairman, it has been said that only police officers know how to investigate police officers who have abused power. That is why Mr LAU Kong-wah said there should be professional investigations. Buddy, similar logics were put forth 30 years ago, claiming that "only police officers know how to investigate police corruption." Now, the investigation is done by the Independent Commission Against Corruption (ICAC). They know how to investigate police corruption. "Only police officers know how to investigate police corruption"? Don't trick me. You can let the ICAC investigate cases of power abuse by police officers and see if it knows how to conduct investigation. I am afraid you dare not let the ICAC investigate. Why? I really do not understand. If Mr LAU Kong-wah and I both concur that there are some black sheep in the Police Force, the Commissioner of Police should hold the same view and should seek to find them out. Why do we not let an independent institution take charge of the investigation? Why must peer investigation be conducted?

Chairman, Mr LAU Kong-wah said that the Police Force has 70% popular support. He asked how much popular support Legislative Council Members have and why we should criticize others. Buddy, the question now is about identifying some black sheep. It is not about the 70% popular support of the Police Force. It does not mean that we can say, "Good. The Police Force has 70% popular support. It does not matter even if it has some black sheep." This should not be the case. I believe Mr LAU Kong-wah did not mean so. Hence, the system has to be reformed and how much popular support the Police Force has is irrelevant. No matter how much popular support it has, there may still be black sheep among them. We should identify them and establish an independent and impartial system to give the public the confidence that the investigation conducted is independent and impartial.

Chairman, what I find more ridiculous is, Mr LAU Kong-wah has said that since Dr Joseph LEE was the Vice-Chairman of the IPCC, there would be impartial judgment. Have you listened carefully to how he has defined an impartial judgment? To begin with, he has dodged the question. He asked us not to talk about the question of "peer investigation" and that we should do our best within the limited power we have. This is what he has said. I do not deny the fact that they should do their best within this restricted system. The point is, under this restricted system, you cannot even request to meet the officer being complaint if he refuses to see you. You can do nothing about it if the Commissioner of Police does not order him to go to see you. Is this not ridiculous?

Moreover, Mr LAU Kong-wah said that we should not belittle the CAPO as lame and useless. Please bear in mind that this was what Senior Counsel Mr Ronny WONG Fook-hum concluded in his farewell speech after completing his term of appointment to take charge of the IPCC. He had been in the frontline of the frontline. As Dr Joseph LEE has said, he had been reading files every day, and he had read thousands of files each year. This was his conclusion after reading tens of thousands of files, and that is, this system was "lame" and "useless" and should be swept under the carpet. Only when the IPCC, in its painstaking search for valid cases, happens to bump into a case or two, will the CAPO release the few cases to it. This is how the system runs. I am not the only person to make such remarks, the person appointed by the Government to take charge of the IPCC to monitor the police also said so.

Chairman, one thing I must say is that the Government, in appointing a person with credibility, should be more careful in considering the candidate. Among numerous counsels, Senior Counsel Mr JAT Sew-tong is the one who has taken up the largest number of government cases and is the most popular Government counsel in legal proceedings. The Government should have used its brain to think. It should either assign fewer cases for him, or not appoint him to lead the IPCC. Is there something wrong with the Government? The Government has appointed a Senior Counsel whom everyone knows that he is the busiest Government counsel. If the Government insists on appointing him, it should avoid the suspicion of conflict of interest. The public officer appointed by the Government should be highly credible, such that people would believe that he is impartial in monitoring the Police Force.

Members, bear in mind that I have not said there are any problems with Mr JAT Sew-tong in discharging his duties in the IPCC, or whether he has actually done anything. Yet, the Government has given us the perception the Government should not have done so, the appointment will give Mr JAT a hard time. Buddy, you should not have done so. There are so many Senior Counsels who can represent the Government in legal proceedings; Anderson CHOW, Johnny MOK to name a few. There are many other examples, but the Government insisted on appointing him. Mr Paul TSE is laughing now. It is as clear as day that the Government should not set him up like that. Of course, it appears as if I am working against Mr JAT Sew-tong. Just rest for a few years and earn less in these few years, buddy; he does not care, neither does he mind earning less money. He has a number of public duties. Naturally, he should handle fewer cases. Some colleagues have already made this point just now. The system of the Government is already so unviable, why did the Government have to fool him around? The situation cannot be worse.

Chairman, a Member has just said that abolishing the CAPO will leave the public with no way to lodge complaints because this is the only channel available. What should be done then? Frankly, if Mr LAU Kong-wah, Dr Joseph LEE and all Members unanimously support the abolition, it simply means that we want the Government to establish an independent system. Otherwise, the Government does not need to hand out cash. Precisely because the pan-democrats have stood firm and some Members of the pro-establishment camp have made a request, the Government would give in as it knew that it could not secure enough votes. Similarly, if this Council can reach a unanimous consensus to ask for an independent and impartial complaint system, the Government will not say, "No. There will be no more channels for lodging complaints and never will be. No more channels for lodging complaints against the police." Do you think this will be the case? This is a political judgment. If a Member says, "Yes. After the abolition, there will be no more channels to lodge complaints. No more." Would you believe him?

Chairman, many people who do not understand what power or power abuse is may not have great concern about this topic. Mr Paul TSE just recounted his experience of getting traffic penalty notice, which is relatively trivial. In the past 20 years of my life, many members of the pro-establishment camp, or I can explicitly say that some committee members of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) of a certain district as well as

some district election candidates of the Hong Kong Federation of Trade Unions have seriously criticized me when they met me at street campaigns. Later, when they came across police officers abusing power or members of the ICAC abusing power, they came to me and said, "Mr TO, I have criticized you in the past 10 or 20 years, but I know it now. Although I will still support the social policy of the DAB, the policy of 'peer investigation' is really out of line. What can be done?"

Chairman, regarding this system, some colleagues have cited some research reports which indicated that examples of police officers investigating police officers also exist in other countries. Yet, please remember that "peer investigation" is different from police officers investigating police officers. For instance, England has several dozens counties. Serious power abuse cases committed by police officers in one county can be investigated by police department in another county, that is, the Scotland Yard where the Metropolitan Police Service (MPS) of London is. Here I am talking about two different counties and two different structures.

However, what is our current practice? Police officers working in the CAPO can be redeployed. In his letter to Members, the Secretary said that it is independent from other establishments. This is certainly untrue. Today, I investigate you, but what about the next day? Some time later, it may be you who will investigate me; or I can become your subordinate because you have been promoted to the rank of inspector. Originally, I am a Sergeant and you are a Police Constable; but I can become your subordinate after your promotion. This is how the system works. Perhaps one may ask whether police officers in England will be transferred from one county to another? No. It is because their system is inherently different. At least, in their case, this is not a standing arrangement.

The only point I wish to respond to, which is relatively new while other points raised this year are not worth mentioning, is a point made by Mr Paul TSE just now. He said that we are not asking every police officer to be very polite and address others with "Mr" and "Sir" and that sometimes they do need to be commanding when they speak. As a member of the Panel on Security for years, I would not be unaware of this. As a lawyer and a person grown up among the grassroots in the resettlement area, I am well aware of this. However, Members should bear in mind that we are investigating the facts here. In order to investigate the facts, we have to be impartial. We cannot be understanding and

sympathetic when we investigate the facts. When we make a judgment, we can be understanding and sympathetic, and we may need to consider the situation at the time; but we cannot behave so when we try to find out the facts. You either have said a certain thing or you have not; you either have hit somebody or you have not; and you have either done something or you have not. No sympathy or understanding is involved. We should not even let our culture influence the investigation. Facts are not found in this manner. In the investigation of facts, a fact is a fact. What is the problem we are facing now? It is about some police officers in the CAPO who, in some circumstances, easily incline towards or sympathize with their colleagues. You would simply have a completely different experience if you lodge a complaint at the ICAC and the CAPO. If you lodge a complaint against a police officer at the ICAC, you will be welcomed, well respected and politely treated by their staff. You will receive a completely different treatment if you lodge complaints at the CAPO. Very often they would question you whether this is really what has happened, whether you have really seen what you have said and whether you have considered the situation of the police officer at that time, as if saying that you should be understanding and sympathize with the police officer. This is the way they take your evidence. If you go to the ICAC, the officers there will not ask you whether the police officer is in an undercover operation or whether the police officer is involved in a secret mission; and they will not ask you not to press the charge of allowing drug trafficking against the police officer. The ICAC officers will not ask you such questions, but rather, they will stock, observe, investigate, intercept communications of and follow the suspect after taking your evidence. They will dig out the information themselves. They will not say something such as you should be understanding and sympathetic about the police officer, which makes you suspect whether the investigation is in progress, whether the investigation officer is handling the matter seriously and whether he genuinely wants to handle your case.

Chairman, if the system is just not perfect enough or has a little flaw, I will not move this amendment. However, the present situation is so worse that I can really tell you, if I become the Secretary for Security tomorrow, I will immediately reform the system. I already have this carefully thought out. I think the reformed system will work. It will not dampen the morale and it enables investigations be conducted impartially to the satisfaction of all stakeholders. Everyone will be convinced, except that there may be a little impact on police officers, but they will accept the reformed system as long as

they have the right to remain silent. I think the system is really feasible and that is why I make such a proposal. The present system is not merely imperfect, to me, it is simply unacceptable; otherwise, I would not have moved the amendment to repeal its entire provision. I have not moved other motion debates. Why have I not do so? It is because I do not think improving it makes any sense.

What Mr LAU Kong-wah said is really ridiculous. He said that we have taken part in the work of the committee for a long time. Precisely because we have been in the committee for so long, I can tell you the IPCC is a "three-nos" body. Dr Joseph LEE just said that if an investigation by the CAPO is not conducted to the satisfaction of the IPCC, the latter can request the CAPO to conduct the investigation again, again and again. This is only a "ball-passing" game. The IPCC does not have its own power of investigation; without the power of investigation, it does not have the final say. It does not have the power to impose sanction, nor does it have the power to pass a verdict. It does not even have the power to pass a verdict. After the investigation of facts is done, it does not even have the final say on the investigation. In other words, it has no power to conduct investigation, no power to pass a verdict and no power to impose sanction. It is a "three-nos" body. It is just old wine in a new bottle. This statutory body has hardly made any progress. A mere change cannot solve the problem. It does not even have a direction to move toward. The statutory body is stuck. Is this what you want? Ten-odd years ago, the Chairman of the former IPCC proposed the civilianization of the chief of the CAPO, so as to appoint an outsider to take up the post, but the proposal fell through.

MR PAUL TSE (in Cantonese): Chairman, I hope Members would not mind that I speak again or take up Members' time because the purpose of the debate is to provide more opportunities for analysis and discussion of the subject, so that people outside the Council can manage to make their own decision on the subject.

I cannot agree with Mr James TO more. Like him, I also grew up in a housing estate. When we were small, we had personal experience of how police officers behaved when they enforced the law. The way they treated the general public, particularly people of the lower echelons, might not have been as civilized as what we would have expected in a civilized society.

However, regarding what Mr James TO has asked, that is, whether police officers investigating police officers is the best approach, I do have a fresh insight. I thank Mr James TO for making an interactive dialogue possible. He said that Hong Kong is such a small place that there is little room for manoeuvres. Even in the Mainland, investigation of officials in a certain region, particularly cases involving corruption or crimes committed by senior officials, is often taken over by the Central Authorities or by a team redeployed from an unrelated region. It is very common to see people in the northern region investigating people in the southern region, or *vice versa*.

Geographically, Hong Kong is small place. I am afraid it would be difficult for us to follow the practices adopted in our country and England, or, as explained in Mr James TO's example, to deploy some other people to conduct the investigation. I thus agree with him that there are difficulties in this regard. What I beg to differ is that Mr James TO has compared the way in which the Independent Commission Against Corruption (ICAC) officers handle cases with that of the police officers. Let me use the example I just cited. The cases handled by the ICAC are usually more civilized. You seldom see the ICAC officers speak to the accused vulgarly when they handle cases involving commercial crimes and corruption. From the cases I have handled I notice that, pardon me for using a rather Cantonese term, many "tricky youngsters" know how to manoeuvre the system. They know that it would be better to lodge complaints at the Complaints Against Police Office (CAPO). Hence, we must differentiate between cases of "tricky youngsters" "fooling" the police and cases of police officers genuinely abusing power. To this end, we must use our experience, common sense, wits and even EQ to the greatest extent. It is indeed quite difficult to do so.

In my years of experience in handling criminal cases, being both defending and prosecuting counsels, I know very well about the positions of the two parties and their opposing points of contention. I am also aware that many things in society are imperfect. I may not be as desperate as Mr James TO as to say that I would immediately abolish this mechanism if I were the Secretary for Security, but I do agree that there is room for improvement. Nonetheless, I am afraid that using this occasion or this approach today can lead the discussion to nowhere. If Mr James TO allows, I will definitely support and take part in any of his motion debates or actions to further perfect this system. In the past years, I have been in touch with victims who had been subject to a system of authoritarianism and

injustice. I know very well their feeling of being slandered and having nowhere to vent their grievances. Given that their opposing party has more resources, sometimes even enough for abuse, they may use public money to attack people with different points of view. Thus, I can fully understand the victims' feeling.

I hope I would not give the impression that I am biased towards a certain party. I only wish to find a point of balance with my similar experience and willingness to understand and listen to both sides. No matter what kinds of proceeding are in question, the crux is that they are subject to a relatively fair and balanced system. The system has to be fair, sufficiently transparent and credible, while allowing us to work efficiently and protect confidentiality where necessary. There should also be considerable understanding of the backgrounds of the parties concerned or the situation in question. Be able to feel as they feel, be understanding and sympathetic. There is not a system which only has the pros and not the cons.

Some colleagues just mentioned that Members are investigating other fellow Members. Honestly, people who have never been a Member will hardly understand the interaction in the Ante-Chamber among Members and how the intricate relationship between Members and public officers works. They will not know how many activities, meetings, reports and complaints from the public that Members have to deal with every day. What are our difficulties? If we have to impartially point out every time when so and so Member has not made preparation for the meetings, when so and so Member has enrolled as a member of a certain committee or panel but never show up at meetings, and which the meetings do not have a quorum, I am afraid this Council will be unable to operate.

We all understand that some system can never be perfect and some only pretend to be perfect. However, if we can find a balance which can make the system roll forward, we may sometimes have to I am not saying that we should muddle along, but rather, we should try to understand the difficulties, the situation and the mentality of the parties involved before making our decision. If the water is always crystal clear, no fish can survive in it. Police officers are definitely not working in a crystal-clear environment. If they are asked to be polite, civilized and act by the book all the time, just like the Travel Industry Council which requires every tourist guide to read out the tourists' rights in the first 15 minutes after boarding the coach, to explain there are many black sheep in

the tourism industry and there are malpractices in some shops, the rights of the tourists and the telephone number to lodge complaints, so on and so forth Frankly, no matter which countries you travel to, the tourist guide will bid the tourists aboard good morning, talk about the weather, say a joke or two, or even laugh about himself. These will do no harm. However, once a stringent mechanism is put in place, everything will be monitored as if being studied under the microscopic view of a magnifying glass. Problems will then arise. A tour to Hong Kong will become a tour of learning one's rights rather than a tour of having fun. If every action taken by police officer is monitored as if being taped by a video camera, I do not know how this will impact on the overall law enforcement in Hong Kong.

I believe we are only asking for a relatively fair and civilized mechanism with should be highly transparent. We cannot make the system as flawless as what Mr James TO has said. I repeat, if I can of any help to further improve the mechanism, I am willing to work with Mr James TO. However, I am afraid I cannot accept his amendment or the way he has handled this issue. Thank you, Chairman.

MR LAU KONG-WAH (in Cantonese): Chairman, my speech will be brief. Mr James TO was angry just now. Thus, he might have been a little indiscreet when he spoke. If he dislikes the system operated under the Independent Police Complaints Council (IPCC) I think that he has been unfair in casting doubts on Mr JAT Sew-tong, the Chairman of the IPCC. Mr James TO said that Mr JAT has taken up many cases from the Government, hinting that he is biased towards the Government and thus unsuitable to head the IPCC. I do not think he should say so. All solicitors and barristers abide by professional ethics. I believe the two, or rather, the several counsels here, including Ms Audrey EU, and possibly Mr Alan LEONG and even Tanya, might have accepted cases from the Government. I do not know whether they have accepted government cases. If they have, or if they will accept, does this mean that they are incapable of monitoring the Government? Do they need to resign from the post of Legislative Council Member and work only as a barrister? Hence, we should do what is appropriate to do in a debate. I do not think the attack that Mr James TO has levelled at the barrister in respect of his conduct is appropriate.

I fully agree with him in saying that he did not reject the entire system, which is fine, and that he is only after the few black sheep, which is the right thing to do. Precisely because of these two reasons he should not reject the entire system. If he does not reject the entire system, why should he repeal the entire provision today? Mr James TO said that Mr Paul TSE and I should follow him in voting for his amendment. I do not know how Mr Paul TSE will vote, but let me tell him explicitly that I not follow him, not in any year, because I think this is an irresponsible attitude.

DR PAN PEY-CHYOU (in Cantonese): This year, Mr James TO has raised this issue for discussion in this Council. Although I do not quite agree with the way he did it, I find this a rather meaningful discussion.

I have tried to consider the matter from another angle, that is, how do other non-police institutions handle complaints? In my case, I am certainly more familiar with the medical profession and the Hospital Authority (HA). At the HA, if a patient or his family members consider that the medical treatment or healthcare service rendered to the patient is below standard, they may lodge a complaint to the Patient Relations Officer at the hospital. First, the hospital will conduct an investigation. The investigation report, when completed, will be transferred to the Patient Relations Officer, which will then be given to the complainant. However, if the aggrieved patient considers that his problem has not been duly addressed, he can lodge another complaint to the HA. The HA has a dedicated department handling complaints, which consists of members of the public, doctors and representatives of other professional disciplines and public groups. If a patient thinks a certain doctor is negligent of his duties or has any dereliction of professional duties, he can lodge a complaint to the Medical Council of Hong Kong. The Medical Council is largely consisted of medical practitioners, but in recent years, other members outside of the medical sector have been added slowly but progressively to the Medical Council. They take part in hearings held by the Medical Council in their capacity as members of the public and are involved in making the judgment. This is how complaints are dealt with in the medical or healthcare sector.

Moreover, members of the public can lodge complaints about maladministration of the Government to The Ombudsman. Certainly, they can also lodge complaints to the department concerned. For example, I believe a

person can directly lodge a complaint to the Immigration Department if he found any malpractices of its officers. If members of the public think that there is any maladministration of the Government, they can also lodge complaints to The Ombudsman. Generally speaking, a two-way complaint mechanism is available in society for services, institutions and certain establishments which are of public concern. One is complaining directly to the institution concerned and the other is to a higher department or a complaint department within the institution by which investigation will be conducted. However, as society progresses and with higher civil awareness, some other organizations, which are relatively independent to these institutions, are established. I said "relatively independent" (in fact, they can only be so) because members and chairman of these organizations are often appointed, which, in a way, gives people the impression that they are more impartial.

What about the Police Force? I remember when I was small, there was a unit within the Police Force to handle complaints. At that time, there were also many criticisms, querying the effectiveness of lodging complaints to that police unit against corrupted police officers. When MACLEHOSE became the Governor of Hong Kong, he established the Independent Commission Against Corruption (ICAC) which reported directly to him. The ICAC was independent of the Police Force, because police corruption was the main concern of the people at that time. In reviewing the work of the ICAC in the past decades, we find that it is desirable to have the ICAC being independent from other government departments and directly accountable to the head of administration. This is a big stride forward.

Similarly, there was the former Independent Police Complaints Council. If people found any malpractices in police operations, they might lodge complaints at this Independent Police Complaints Council within the Police Force. Later, upon much public discussion and careful scrutiny of the Bill concerned, the new Independent Police The name is too long. Anyway, the IPCC, as we all know, becomes an independent body. In fact, in handling police corruption or complaints against police officers, the trend is to designate a relatively independent department to take charge of it At least, a mechanism is in place outside the Police Force for the public to lodge complaints against police officers if their grievances are not addressed in the internal investigation conducted by the Police Force.

I am not speaking on behalf of the Hong Kong Federation of Trade Unions or some other organizations. I am only trying to sort out this problem. I think that both mechanisms may ultimately be indispensable. In other words, the Police Force will also conduct internal investigations on complaints against police officers. Why? As pointed out by other colleagues, the Police Force is familiar with their own operation. More importantly, if we look at the positive side, there is always something to learn from every complaint, no matter which organization the complaint is levelled at. To begin with, it can clear the problems existed in the organization; and second, reviews can be conducted to make things better, which often will lead to a positive experience. Those of us who have taken part in handling complaints will know that complaints are often justified and that malpractices do exist. We can make use of this opportunity to discuss the matter with the officer concerned and carry out disciplinary actions where necessary.

However, if the problem is so serious that it is out of the scope of the Police Force to handle, I hold that a mechanism should ultimately be made available, so that the aggrieved person can lodge complaints to a relatively independent body and let this body handle the case. These are the thoughts that I have about this problem. I believe many Members and the public also wish to spend more time on sorting out this problem. Here, while I think that it is good that Mr TO has brought up this issue for discussion, I beg to differ on the immediate repeal of the provision concerned. This gives the impression that the matter must be handled first and it is useless to spend too much time on discussing it. I cannot accept this approach. I hold that more time is necessary to see if the present mechanism is feasible. I personally think that we should first discuss this matter at the relevant Panel and spend more time on examining this matter. This is my view.

However, I think it is rather like a child's play if we were to repeal the provision for this department now. I so submit.

MR JAMES TO (in Cantonese): Chairman, I just want to make two points. First, Mr LAU Kong-wah claimed that I attacked Mr JAT Sew-tong, Senior Counsel, by raising doubts about his being the Chairman of the Independent Police Complaints Council (IPCC) as well as a barrister. In fact, this is not what I mean. If he has listened carefully, what I mean is that, "The Government has

set a trap of injustice for him." In other words, there is nothing wrong with Mr JAT himself and he can act in a just manner. But the pitfall lies in the fact that before his appointment, he has already represented the Government in many legal cases and many of them were highly sensitive.

Let us think about this. Some cases, such as those involving Mr LEUNG Kwok-hung, were often the most sensitive ones involving scuffles between police officers and Mr LEUNG. Mr JAT has handled many such cases. He has represented the Government in cross-examining Mr LEUNG Kwok-hung or in undertaking judicial review cases. He has taken part in some highly sensitive cases. Afterwards, the Government appointed him to this public office, claiming that he was very capable in monitoring the Police Force. Is the Government not "setting a trap of injustice for him"?

This is an objective fact. I hope the Government can give careful consideration when identifying candidates for public offices. For example, in selecting the Chairman of the Equal Opportunities Commission, if the identified candidate has repeatedly made adversary comments on the issue of equal opportunities on behalf of the Government, his position will be very embarrassing. Therefore, what I mean is that while Mr JAT's integrity is acknowledged by all those who have come into contact with him, it is most unfortunate that the Government has damaged his image through this arrangement. Of course, the Government can argue that the matter involves two different departments, namely the Security Bureau and the Department of Justice. Notwithstanding, I am telling the Secretary that he needs to reconsider the matter carefully.

Dr PAN said just now that we should give the Government more time. Should the provision be deleted all of a sudden, the situation will be quite hilarious. In fact, other Honourable colleagues have already become impatient with me because I have been doing the same thing since I joined the former Legislative Council in 1991. I have been trying to delete this item of expenditure for 10-odd years. Has the Government ever indicated that the department will become independent? Dr PAN is a good fellow and he suggested that we should "walk on both legs". I understand that he meant measures such as the power of second investigation. That is exactly the proposal I have put forth to the Government for consideration. I am willing to compromise on the power of first investigation by allowing the Police Force to

investigate into the malpractices of police officers. However, the IPCC will not be satisfied with all investigation cases. If the IPCC has any disagreement, the cases must be very serious or extreme. I suggest that for these cases, the IPCC should not be asked to refer them back to the Police Force for investigation. Instead, the IPCC should convene a panel formed by members other than police officers to conduct investigation under its monitoring. However, the Government is unwilling to accept the proposal.

I am willing to be co-operative and have considered various institutional issues. But the Government is unwilling to accept the proposal, which has in fact been suggested by some former members of the IPCC. The Government just refuses to accept the proposal. Just now, I have talked about some history. Some 10 to 20 years ago, the then Chairman of IPCC — I cannot recall whether it was Denis CHANG or Rosanna WONG — had asked whether a suggestion could be made to the Government (that is, the then Secretary for Security) that the highest ranking officer in the Complaints Against Police Office (CAPO), that is, the post of commander, be filled by a non-police officer. In that case, the commander of the internal investigation department of the Police Force was at least not a police officer. Was that possible? No, that suggestion was likewise rejected. Ultimately, the first gate-keeping must be undertaken by police officers. They must exercise control so as to conduct their own investigations behind closed doors. Some 10 to 20 years have passed, and this is not the first year I make this suggestion. The matter has been discussed for some 10 to 20 years. What then must I do to take up the issue of review with the Government? What more is there to say? My amendments in relation to the IPCC have all been vetoed. The Government is unwilling to accept any changes, resulting in the IPCC being an organization with "three-nos". What more is there to say? The result is simply that public grievances are left to accumulate, which is quite unavoidable.

By providing some background information, I hope other Honourable Members can understand that I have been fighting for this matter for many years, so much so that reporters, my colleagues and everyone else have become impatient. However, I will continue the fight as long as this issue remains unresolved and a structural or fundamental problem still exists. I can do nothing about it. I will instantly approach whoever intending to run for the office of the next Chief Executive and present him with the proposal of making the CAPO an independent agency. I have no choice, this is something I must do.

Just now, Mr LEUNG Kwok-hung has made a very good final point. But I think his point was lost to many people, possibly because he spoke too fast. He said that the Commissioner of Police certainly had the highest authority. Why? Because he could use the number 1 car plate, and so on. But the reason is more than that. It is because under the existing Police Force Ordinance, the Commissioner of Police reports to the Chief Executive direct, and not to the Secretary for Security. Under the former system, the Governor would give direct orders to the Police Force. But honestly, the colonial era had gone. The Commissioner of Police should of course report directly on matters relating to public order and law enforcement to the Secretary for Security, who should then report to the Chief Executive. However, at present, the Commissioner of Police reports to the Chief Executive direct. Nobody has such powers, not even the Commissioner of Customs and Excise or the Commissioner of Correctional Services. Only the Commissioner of Police has such powers and this arrangement should be reformed.

I have witnessed a scene at a closed meeting which was attended by me, the then Secretary for Security and others. On that occasion, I was surprised to see the then Secretary for Security urged the Commissioner of Police to handle certain matters, to keep in view certain crimes and public order issues. At that time, I thought, "Since you are his boss, why not just order him to deal with these matters?" Later on, it occurred to me that the Secretary for Security could do nothing about the Commissioner of Police. If the Commissioner of Police refused to handle those matters or did not handle them properly, but he still disputed, what could be done? That was why the Secretary for Security had made use of that occasion, that is, at a closed meeting of a certain committee, with me and him as members, and chaired by a more senior official, he asked the Commissioner of Police to handle an issue concerning public order. Having heard the case, I also considered it an important issue and voiced my suggestions. The Chairman of that committee finally ordered the Commissioner of Police to give a report and update the progress of the case at the next meeting.

The situation is just that bad. Sometimes, even the Secretary for Security cannot handle the Commissioner of Police. That is how authoritative he is. He is so arrogant because the system has already been stipulated in law. Why does he need to listen to you? Both you and I are appointed by the Central Authorities, but the law has stipulated that I need not report to you. The law expressly stipulates that I only need to be accountable to the Chief Executive.

Though theoretically you are a directorate officer drawing a higher salary than me, so what? The problem lies with the system. That is why Mr LEUNG Kwok-hung is right in saying that there are many problems with the system and it needs to be reformed. Indeed, that is not the only problem.

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

MR ALAN LEONG (in Cantonese): Chairman, although I know today's meeting is going to be very long, I must still briefly explain the stand of the Civic Party on the amendment proposed by Mr James TO. The Civic Party will abstain from voting on this amendment later on. I would like to explain our reasons for doing so.

Chairman, the Civic Party identifies to a very large extent with the emotional speech made by Mr TO just now. Before joining this Council as a Member, I had served in the former Independent Police Complaints Council (IPCC). During my six-year tenure, I had in fact witnessed tremendous limitation on the work of the former or current IPCC because its major function is to review the reports submitted by the Complaints Against Police Office (CAPO) on complaints it handled. Just now, when mentioning the name of CAPO in Cantonese (which is "投訴警察課"), many Honourable colleagues have misread it as "警察投訴課". Colleagues of the CAPO in fact are very mindful about the propriety of their department's name. Therefore, I hope we can all make an effort to use the proper term "投訴警察課" from now on.

I am deeply aware of the limitations of the IPCC's work. Although I no longer serve in the IPCC, I had, prior to my departure as its Vice-Chairman, already noted that reports submitted by the CAPO were becoming more professional — I mean it has become increasingly difficult to detect the loopholes in the reports they submitted. Chairman, please understand, we can only review the reports on complaint cases handled by the CAPO and if the reports are immaculately written, taking up trifles and evading serious matters, it would become increasingly difficult for us to find out the irregularities in the report and request for a review.

I am glad to see that — especially after the passage of the legislation relating to the IPCC by this Council — the IPCC has strengthened its observer system and increased the number of surprise visits. All these have helped enhance the IPCC's credibility. Chairman, while we endorse the spirit behind the amendment proposed by Mr James TO and agree that it is the right time for the executive authorities to review whether there is any major direction and room for improvement regarding the IPCC's operation, we consider that the IPCC has at least, in its day-to-day operation, served the function of monitoring the CAPO. Hence, we consider that the IPCC should be allowed to continue operation. However, I hope Secretary Ambrose LEE, who attends today's meeting on behalf of the executive authorities, would understand that although the fate of Mr TO's amendment today is foreseeable, the executive authorities should not be complacent and reject the need for further review on the police complaints system.

Chairman, we should understand, whether police powers are properly monitored is in fact of vital importance to a society where the rule of law and the respect for freedom and human rights are prevalent. Hence, if the IPCC has no credibility among the people of Hong Kong, it will not be beneficial to the Police Force either. I hope Secretary Ambrose LEE will take this to heart. If the people who monitor the CAPO's work on behalf of the public (that is, this organization called the IPCC) are restricted in terms of resources, manpower and finances or in respect of the power of review, or if the police invariably adopts an unco-operative attitude when challenged by the IPCC, the public will just lose confidence in the front-line gate-keepers. If their credibility has been further undermined, the smooth conduct of police work or the overall operation and credibility of the Police Force will also be affected. Hence, although this amendment is likely to be vetoed, I hope the Secretary and the Security Bureau will continue to maintain regular communication with the IPCC, pay more attention to its operational difficulty and ask the Commissioner of Police to adopt a co-operative attitude in his interaction with the IPCC. I so submit.

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

MRS SOPHIE LEUNG (in Cantonese): Chairman, I have heard many views expressed by a number of Honourable colleagues on this subject. I only want to

add two points, particularly because Mr James TO has spoken so emotionally just now that he had fought for this issue for 10 to 20 years. Honourable colleagues feel greatly for him, and so do the media. Chairman, I can only say I am making these few remarks out of concern for Mr TO's mental well-being.

I know he is a very persistent person, and I highly respect him for that. However, even though he is so persistent about this matter, he can at most fight for it for 80 years in the community and in this world because 80 years is about how long one's life is. Nonetheless, does he have to be so persistent? Sometimes, if one can think from another perspective, his perception may be different.

I only want to say that I am really sincere in making these remarks to Mr TO because from a certain point of view Although I am not as conversant about the work of the Complaints Against Police Office (CAPO) and the Independent Police Complaints Council (IPCC) over the years as other Honourable Members who spoke just now, we must consider certain matters from the perspective of the integrity of the system.

I have listened attentively to the speeches made by Honourable Members just now. I think if the CAPO has been established in the Police Force, and for a long time Chairman, I want to compare this department to our well-being. In the past, one would maintain his well-being, that is, his state of health, through medical consultation or medication, either western or Chinese medicine. It is the same when one is sick. However, there are many new concepts nowadays about enhancing our immunity so that we can have stronger resistance and a higher level of self-restoration. Let us consider our Police Force from this perspective. If the CAPO has already been established in the Police Force for the purposes of self-restoration and self-monitoring, we should give it a chance to continue operation.

Mr Alan LEONG just said he recently noticed that the reports submitted by the CAPO were highly professional. Of course, if the reports are so well-written that it is difficult to detect the irregularities, this in fact poses great challenges for members of the IPCC. They have to be shrewd and insightful, and know how to ask questions to dig into the problems. That is a separate issue which I do not want to go into details. Overall speaking, over the past few decades, our Police Force has gained excellent international reputation. I think this factor alone is

adequate for us to give the Police Force further opportunity to implement the mechanism for self-restoration.

Separately, Chairman, I often think that from the angle of management, we should understand a general truth, that is, how to achieve better management through learning from one's mistakes. That is what is meant by "management by your own mistakes", how to improve the system by reviewing the mistakes. Hence, from this perspective, I think the CAPO still has the value for continued existence and we should encourage the CAPO to do a better work.

Of course, many Honourable Members just now asked what the IPCC should do under these circumstances, and they hoped that the Secretary and the IPCC should maintain communication. I think that is an excellent way forward. Hence, I think we should sometimes review the situation from another perspective and stop holding onto our views. If Mr TO continues to hold onto his views, this might make the people around him stop taking heed to his views because they have heard him "cry wolf" too often.

In view of the above, I hope we can consider this matter in a calm manner and let the Police Force continues its self-restoration. I also hope our Police Force will gain growing recognition in the international community.

Chairman, I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR SECURITY (in Cantonese): Chairman, Mr James TO's amendment to the Appropriation Bill 2011 proposes to reduce the total sum of \$46,060,000 under head 122 in respect of subhead 000, that is, the Hong Kong Police Force (Police Force) "Operational Expenses" subhead. This in effect means slashing the provision for the Complaints Against Police Office (CAPO). The authorities hold that this amendment will lead to very serious consequences. I therefore call upon Honourable Members to vote against it.

During the Legislative Council's scrutiny of the Appropriation Bill in the past four years, Mr James TO invariably put forward a similar amendment. The passage of such an amendment will not improve the existing police complaints mechanism. Quite the contrary, the resultant lack of funding will render it impossible for the CAPO to continue to handle public complaints against members of the Police Force. Besides, investigations underway must also come to a halt.

The present two-tier police complaints mechanism has built in effective checks and balances. Under this mechanism, the CAPO is specifically tasked with handling and investigating complaints lodged by the public against members of the Police Force. Operationally, the CAPO is independent of the rest of the Police Force. This is to ensure that all investigations can be conducted objectively and impartially. The outcomes of investigations are referred to the Independent Police Complaints Council (IPCC) for monitoring and examination.

The Independent Police Complaints Council Ordinance (the IPCC Ordinance) came into effect on 1 June 2009, and the IPCC began to operate as an independent statutory body on the same day. The IPCC Ordinance expressly provides the two-tier police complaints mechanism with a legal basis, and stipulates that the IPCC shall operate to exercise its power and functions of monitoring investigations into reportable police complaints handled by the CAPO. If, in the course of examining a complaint, the IPCC has any doubts about the CAPO's investigation, it may request the CAPO to provide more information or conduct the investigation anew. It may even refer the whole complaint case together with its recommendations to the Chief Executive for consideration. Under the IPCC Ordinance, the police have the statutory duty to comply with the IPCC's requests. In addition, the IPCC Ordinance also empowers IPCC members and Observers to attend all interviews conducted by the police in relation to reportable complaints, with or without any prior arrangements at their own choices. IPCC members and Observers are also empowered to observe the collection of evidence by the police during their investigation into reportable complaints. This shows that the IPCC Ordinance can help enhance the checks and balances under the present mechanism, thus enabling the IPCC to monitor the handling of reportable complaints by the police in a more effective manner.

Having listened carefully to the debate of Honourable Members just now, I am glad to hear Mr James TO mentioning that in our Police Force, the majority are very good officers with only some black sheep. At present, there are about 20 000 to 30 000 uniformed officers in our Police Force. While I will not discount the fact that there are inevitably some black sheep in such a large force, I can give my words to Honourable Members that both the Commissioner of Police and I will never tolerate the black sheep. Therefore, the CAPO has been taking its investigation work very seriously year after year. In 2010, among the investigations completed by the CAPO, 237 cases were found by the IPCC to be substantiated or partially substantiated. These cases involved 337 police officers. Of course, for the substantiated complaint cases, disciplinary actions have been taken as a follow-up. We have absolutely not tolerated with these so-called black sheep. Particularly, we can all see that the relevant police officers will be subject to disciplinary actions; and if they are involved in any crimes, the police will deal with them in a fair and just manner.

Just now, Mr James TO also mentioned a point which he has talked about previously, that is, the so-called "hush-money". We all know that some complaints initiated by members of the public against the police would be settled under the civil judicial system. In fact, that is exactly a channel for dispute resolution in civil cases under Hong Kong's legal system. Hence, I disagree with the saying that this is "hush-money" because this is a legal procedure for the Government and members of the public to resolve and reach an agreement on their disputes. This is an appropriate arrangement under our legal system.

It is the authorities' pledge to continue to ensure an appropriate supply of resources to the statutory IPCC so that it can discharge its functions. At the same time, we must ensure that the CAPO of the Police Force will continue to receive the funding required for its smooth operation. If Mr TO's amendment is passed, the CAPO will be rendered unable to operate due to the lack of funding. This is tantamount to scrapping the entire police complaints mechanism. I consider this highly irresponsible and it obviously runs counter to public interest. I implore Honourable Members to support the Government and oppose Mr TO's amendment.

Thank you, Chairman.

MR JAMES TO (in Cantonese): Chairman, I will not repeat the points already made. I only want to share two new points with Members.

First, the Secretary just mentioned that the Independent Police Complaints Council (IPCC) has reviewed all the complaint cases, each year, several hundred police officers or 300-odd to 400 cases are involved. I would like to tell Honourable Members that currently, the IPCC If you ask the police — I will just treat those several hundred police officers as "a few black sheep", but surely the severity of the complaint cases can vary substantially, ranging from slight impoliteness to serious abuse of power. For the substantiated cases, what disciplinary actions have been taken? Sorry, those are personnel matters. Can you tell me the outcome of a particular case, or whether an allegation of power abuse has been substantiated? Sorry, no comment. Moreover, such information is not only withheld from the public and Members of this Council, even members of the IPCC cannot access to such information because they concerns the privacy of the police officer who is the subject of complaint. Come on! This is exactly what happens now. I hope the Commissioner of Police will make some improvement or even tell us immediately that the system has already been improved. It can be done right away.

Second, the so-called "hush-money". If a member of the public, having absolutely no trust on this complaint system, instituted civil proceedings against an individual police officer or a group of police officers for beating him up or abuse of power (which are more serious allegations) and the case was eventually resolved through compensation, it means that the case would not even be handled by the Complaints Against Police Office (CAPO) because the complainant had already been "pacified". There are people who have not lodged any complaints even if they intended to do so in the first place. There are people who might have complained in the first place, but they eventually resorted to civil proceedings, meaning that no further follow-up actions would be taken for these cases. Please note, even if the IPCC eventually wants to learn about the facts of these cases, or take any follow-up actions or investigation, can this be done? The answer is no because there is no complaint. Moreover, the complainant may refuse to give any statement. The whole incident will be concluded as such. Of course, the complainant may feel that justice has somewhat been served because of the compensation awarded. If the Government denies that there are such cases as assault, the case should be tried in court, particularly when such a serious allegation is involved. However, the parties concerned have

chosen to resort to civil proceedings and the matter is settled by offering monetary compensation.

Honestly, if the number of such cases has been on the increase, our police complaints system has become a system of "monetary compensation". If that is not "hush-money", what is it? Members of the public resort to another channel to seek justice because they have no trust in the system. Let us not forget that the charges mentioned in their "litigation papers" are beating, serious abuse of power, and so on. I have no wish to see such a development. I hope our system As far as I know, the police officer concerned will not be subject to any sanction. Of course, that is because monetary compensation has been paid. Problems will arise if more and more "black sheep" can escape through this system and complaints are just "swept under the carpet" as described by Mr Ronny WONG, former Chairman of the IPCC. In that case, we will never find out the "black sheep". That is where the current problem lies; the Government cannot resolve this structural problem.

Many members of the public say that, "I do not like to complain. I want compensation." This is not true, they just do not believe in the system. If they say, "I basically just want compensation", that is another matter. However, many people wanted to lodge complaints to the CAPO in the first place. Having heard the explanation from Members, they gave up. In some cases, the complainants have lodged their cases for quite some time but they eventually found out that their cases would be handled in such a manner. They then went to find Members or lawyers and asked whether other channels were available.

I remember a case which happened 10-odd years ago. An off-duty customs officer was having midnight snack with his colleagues in Hung Hom. Some police officers were having an operation there. When questioned by the police officers, he replied that he was a "colleague". They then asked him, "What colleague"? He said, "Customs" and told the police officers to speak more politely. He was then beaten up. Afterwards, the customs officers union asked me to set up an independent investigation committee in the Legislative Council. An off-duty customs officer was also beaten up. An undercover police officer was also beaten up in the Eastern District because his disguise as a gangster was too perfect and he was beaten up as such. Having been beaten up, he could not raise any complaints because his disguise was just too good.

As a matter of fact, there are a few black sheep in the Police Force. The question is whether the complaints are being suppressed under the current system and cannot be resolved.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes, after which the division will begin.

MR ABRAHAM SHEK (in Cantonese): I am the Vice-Chairman of the Independent Police Complaints Council.

(Dr LAM Tai-fai also rose to declare his interest as the Vice-Chairman of the Independent Police Complaints Council)

(The division bell stopped ringing)

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the amendment.

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

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, two were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies

through direct elections, 23 were present, 12 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MR JAMES TO (in Cantonese): Chairman, I move that head 122 be reduced by \$18,568,000 in respect of subhead 000..... pardon me, it should be \$18,506,805.

Chairman, this provision is equivalent to the resources required to create 100 additional posts of police officers. According to the Government, the posts are related to counter-terrorism work and the incumbents will be posted to the Security Wing. The predecessor of the Security Wing was the Special Branch during the British-Hong Kong era.

Since the reunification, the establishment of the Security Wing has remained at around 411 officers and its expenditure has remained at around \$127 million. But, starting from 2007, the establishment of the Security Wing has been increasing. This year, its headcount is 725 officers and its expenditure is \$240 million. In other words, the expenditure of the department was \$120 million at the time of the reunification, while its current year expenditure is \$240 million, representing an increase of 89% compared with 2007.

Regarding counter-terrorism work, I think Members will recall that it became a focus of attention globally since 2001 during the aftermath of the 911 incident. As a matter of fact, the Government has not increased the expenditure of the Security Wing from 2001 to 2006.

I think Members will remember the 1 July rally in 2003, which was held in opposition to Article 23 legislation. At that time, I have already closely monitored whether the Government would increase the establishment of the Security Wing because the authorities had all the reasons to increase its establishment and expenditure so that it could tackle the work relating to national security as stipulated in Article 23 and took over the duties of the former Special Branch.

However, the 1 July rally in 2003 has upset the Government's work relating to Article 23 legislation. Subsequent to the withdrawal of the relevant Bill, the

Government has sought no increase in the establishment and expenditure of the department for three or four consecutive years. However, at a time when even the United States Government has re-organized its security departments and started pulling off its troops from certain areas, and when the Commissioner of Police has also confirmed in his reply that the risk level of terrorist activities has not increased this year, the Government has gradually doubled the expenditure of the department over the years.

Chairman, while the nature of the Security Wing's work is extremely sensitive, its transparency is extremely low. In the past, this secretive department was responsible for counter-terrorist work as we know, and more importantly, it undertook other covert operations such as political surveillance, that is, the duties carried out for the purpose of national security in name but controlling the people in reality.

As there is no way we can ascertain in detail whether the said manpower will only be deployed to undertake counter-terrorist work and not other duties of the Security Wing, Chairman, I cannot support the allocation of additional funding because it is clear that the intelligence department handling sensitive work in Hong Kong is subject to much less monitoring as compared with similar agencies in overseas countries.

A research has been undertaken by the Legislative Council to study the parliamentary monitoring mechanism on agencies handling sensitive work in other democratic countries, such as the Central Intelligence Agency of the United States and other related intelligence agencies. According to the findings, dedicated special parliamentary committees or organizations are established in all the democratic countries under study to monitor the government's execution of intelligence work in a covert manner.

However, when we reflected Hong Kong's situation to the Government and asked whether a similar committee or monitoring mechanism could be put in place, the request was rejected by the Government. We are most concerned that under the current situation where there is no reasonable mechanism to exercise monitoring on behalf of the people, we cannot ensure that the said manpower will not be deployed to conduct political surveillance. Therefore, there is really no way we can support this funding allocation.

In fact, when Article 23 legislation was underway, we had conducted studies on the relevant manpower level. To put it blankly, a very likely scenario is that no matter who becomes the next Chief Executive, he will advocate and, with the blessing of the Central Authorities, pledge to initiate the legislative work for implementing Article 23. The Government is merely doing things the other way round by securing the required manpower first on the pretext of counter-terrorism. Upon the success of Article 23 legislation, adequate manpower will be in place to undertake enforcement actions in relation to Article 23 legislation including political surveillance.

Chairman, this subject is relatively simple. Nonetheless, probably because of its extreme secrecy, Honourable colleagues may not have paid attention to this department from such a perspective. However, I have tried by various means to understand its establishment as well as deployment of manpower from other departments or agencies in the Police Force so that it can undertake political surveillance in the name of collecting criminal intelligence within particular areas. Other colleagues may find this matter rather difficult to grasp and understand.

Chairman, we have reasonable cause to ask the Government to consider establishing a proper monitoring system by making reference to other democratic countries. I consider it most suitable to set up a special committee in this Council to monitor these relatively sensitive work and system. I hope Honourable colleagues can support my amendment so that the Government is compelled to reform the system. Otherwise, we would be providing manpower to the authorities to undertake work that is a disservice to Hong Kong people.

Mr James TO moved the following motion:

"RESOLVED that head 122 be reduced by \$18,506,805 in respect of subhead 000."

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

(No Member indicated a wish to speak)

SECRETARY FOR SECURITY (in Cantonese): Chairman, Mr James TO's amendment to the Appropriation Bill 2011 proposes that head 122 be reduced by \$18,506,805 in respect of subhead 000, that is, the Hong Kong Police Force (Police Force) "Operational Expenses" subhead. This in effect means the deletion of the provision pertaining to the 100 additional posts to be created by the police for counter-terrorism work.

Since the 911 incident, terrorist activities have been occurring all over the world rather frequently. The Police Force has been striving to maintain the stability and security of Hong Kong, with great importance attached to counter-terrorism work. Currently, the counter-terrorism work of the Police Force covers the formulation of counter-terrorism contingency plans, co-operation with governments and law-enforcement agencies outside Hong Kong, monitoring of international trends, intelligence exchanges, timely assessments of terrorist threats, counter-terrorism drills, upgrading of counter-terrorism training and various security operations on land, sea and air boundaries.

For this reason, the Police Force proposes the creation of 100 posts in the 2011-2012 financial year for the purpose of implementing a number of counter-terrorism measures. Among the 100 additional disciplined posts, 60 posts would be used to establish the Critical Infrastructure Security Co-ordination Centre (the Co-ordination Centre). The Co-ordination Centre is specifically responsible for the implementation of prevention and protection operations under the police's Counter Terrorism Strategy. It will maintain close and effective contact with stakeholders of the infrastructure and conduct timely risk assessments. Moreover, to enhance the overall counter-terrorism capability, the Co-ordination Centre will also provide professional recommendations to stakeholders on security improvement and help them formulate effective security plans on the basis of the threat level assessments. Furthermore, to strengthen the front-line counter-terrorism capability, the Police Force will create 40 posts for the Counter Terrorism Response Unit mainly for the protection of critical infrastructures and the effective implementation of the police's Counter Terrorism Strategy.

At present, police officers of various formations in the Police Force are engaged in counter-terrorism work in varying degrees. The creation of the 100 posts to undertake counter-terrorism duties will enhance the capability and

efficiency of the Police Force in responding to terrorism and strengthen the protection for all strata of society.

Given the complexity of the existing counter-terrorism situation in the international community, Hong Kong, being an international metropolis, needs to continue to enhance the overall counter-terrorism capability and awareness of the Police Force so as to keep in line with overseas arrangements by setting up a dedicated and specially trained operation unit to perform counter-terrorism duties effectively, extend the scope of protection, enhance the overall counter-terrorism capability of the Police Force and implement the counter-terrorism strategy of the Police Force in an effective manner. If Mr TO's amendment is passed, the capability of the Police Force to deal with terrorist threats will be seriously hampered, thereby jeopardizing public security. Therefore, I implore Members to support the Government and oppose Mr TO's amendment.

MR JAMES TO (in Cantonese): Chairman, the Secretary has merely read from his script by saying that the whole world has become extremely concerned about counter-terrorism work since the 911 incident. Of course, this is natural. However, when was the most urgent timing of such work? It was between 2001 and 2006 or 2007. During those years, the establishment of the Security Wing of the Police Force has not been increased. Why no additional funding was sought to undertake counter-terrorism work when it was most urgently needed? Why additional funding is only sought now? At present, many countries see the need to review their counter-terrorism work. Even the United States has frankly admitted that the Iraq invasion was initiated because of some false intelligence. Hence, they have also adjusted the relevant policy. However, it is at this juncture that the Government has suddenly proposed to increase the expenditure pertaining to counter-terrorism work.

Second, I hope Honourable Members still remember what I said just now. I said I had asked the Commissioner of Police for two consecutive years whether the threat of terrorist activities had increased. All these have been recorded in black and white. He had also replied in black and white to the negative. If the threat of terrorist activities has not increased and countries all over the world have started to adjust their counter-terrorism strategy, why does the Government only seek additional funding for counter-terrorism work now, but not when it was most urgently needed? Why is that so?

The reason is that at the time when counter-terrorism work was most urgently needed, we were dealing with Article 23 legislation. Had the Government sought additional funding at that moment, the "hidden truth" would be revealed. Everyone would know that the relevant expenditure was related to Article 23 legislation and it would be more difficult to get funding approval. Hence, the Government decided to ensure the passage of Article 23 legislation first; though it was unsuccessful eventually. But Article 23 legislation must be dealt with sooner or later. Hence, the Government is now working the other way round by seeking additional manpower first and get the groundwork done. Upon the enactment of Article 23 legislation, everything will be ready for enforcement. We can only make this interpretation because the Government's action is simply unexplainable objectively from the perspectives of risk of terrorist threats, justification and history.

Chairman, while this amendment of mine may likewise be vetoed, my words have been recorded. Regarding how the Government undertakes Article 23 legislation in the future and whether the expenditure of the Security Wing is used for enforcing Article 23 legislation, the Government cannot withhold the truth from the public for long.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong voted for the amendment.

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

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr LEE Wing-tat, Mr KAM Nai-wai, Mr WONG Sing-chi and Mr Albert CHAN voted for the amendment.

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 21 were present, one was in favour of the amendment and 20 against it; while among the Members returned by geographical constituencies

through direct elections, 19 were present, eight were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MR JAMES TO (in Cantonese): Chairman, this is my last amendment today. I move that head 122 be reduced by \$80 million in respect of subhead 103.

Chairman, this \$80 million is under the provision of "Rewards and Special Services". Some people may simply refer it as "informer's fees". This term is in fact incorrect, and "outrageously" wrong, because my understanding is that "informer's fees" only account for a very small part in the expenditure of "Rewards and Special Services". The nature of most of the expenses is unknown. I bet Honourable Members will still be clueless after listening to the Secretary's speech later. But I hope Members can have a better understanding after listening to my explanation on the background of subhead 103.

Subhead 103 was the expenditure for the Special Branch during the British-Hong Kong era, including items such as manpower and equipment. At its peak, the expenditure amounted to several hundred million dollars. I have previously tried to ask the Government whether this \$80 million included any staff costs, but it refused to give me an answer. I have also tried to enquire about the respective percentages of manpower and equipment, again it refused to give me an answer; because if information about the manpower and equipment of this department was made known, its trump card would be revealed.

I was really puzzled. In fact, if considering the staff costs of the Police Force alone, this \$80 million does not count towards the \$200 million we just discussed about the establishment of 725 staff in the Security Wing, neither does it count towards the expenditure of \$20-odd million pertaining to 643 staff in the Criminal Intelligence Bureau, nor does it count towards the expenditure of \$40-odd million pertaining to 133 staff in the establishment of the Technical Services Division (TSD) specifically tasked with the interception of communications. In other words, even if we have a general idea about how much of this \$80 million goes towards manpower and equipment respectively, there is absolutely no way the criminals can take advantage of such information and become aware of our trump card. This is quite amazing because such theory can only fool those colleagues who are unfamiliar with the subject.

Chairman, what actually is this \$80 million used for? It is a black hole, the darkest void which nobody dares touch on. I have previously asked the Director of Audit whether he could audit the said account and prepare a general report in detail. I was not asking for details such as how much money individual informers got (that only accounted for a small part of the whole sum). Could some general figures be given? For example, regarding the expenditure on procurement, what items have been procured? Has the money been used to purchase properties for speculation?

Chairman, the problem is that without the intervention by persons outside the Police Force (including the Director of Audit) or the setting up of a special committee under this Council (just like the arrangement in other democratic countries) to monitor these sensitive intelligence operations and the relevant expenditure, blatant cases of power abuse can happen, just like the situation before and after the reunification in 1997. I at least know of one such case. On that occasion, the official residence of the Commissioner of Police was burgled and some of his wife's jewelries were stolen. These jewelries eventually landed in a pawn shop in Macao. Finally, part of the expenditure for "Rewards and Special Services" was used to buy back the jewelries from the pawn shop for the Commissioner of Police's wife. I do not know if properties stolen from the homes of Members of this Council or members of the public that get landed in a pawn shop in Macao would get the same treatment? Whether the Commissioner of Police would allocate his expenditure to buy back the properties on their behalf?

Why do I dare relay this incident "truthfully"? It is because upon my enquiry then, the Government dared not deny the case. Moreover, I also know the identity of that particular superintendent who authorized the said expenditure. He has already retired. Chairman, with this mysterious expenditure item, the 725 staff in the Security Wing and some of the manpower in the TSD as I have just mentioned, the police is in fact capable of undertaking political surveillance of a certain scale. All that is left is the passage of Article 23 legislation for such work to be undertaken officially.

Chairman, I know it is relatively difficult for Honourable colleagues to understand this issue. But if they really care, they can try seeking additional information from the Commissioner of Police. Also, is it possible for colleagues from the pro-establishment camp (especially those who are in this Chamber now

and have a better understanding in this regard) to give us a more detailed account under the condition of confidentiality? Of course, as I just said, I consider it best to set up a special committee under this Council to scrutinize a summary of the expenditure items under the condition of confidentiality. Let us remember I have not asked for specifics such as how much money individual informers get or what information they have supplied. I think all these are unnecessary. But should the Government at least enhance transparency by providing us with a general account of the expenditure on manpower and equipment both in terms of their general use and the specific items?

In fact, the Government has previously undertaken to conduct a review. But it is now saying that the Inception of Communications and Surveillance Ordinance (the Ordinance) is already the destination. Let us not forget that the Ordinance is only a framework, a concept. But we are now talking about the practical use of this provision. We have all the reasons to know about the major and subsidiary items of expenditure and we can do so in a manner that balances the needs of confidentiality, security and accountability. At that time, an undertaking was given by Secretary Regina IP who had yet to leave the Government that every means would be considered to resolve the problem. But no positive outcome is forthcoming right up to this very moment.

Lastly, the Government has said on certain occasions that it would try to explore ways to reform the criminal intelligence work of the Criminal Intelligence Bureau and consider, against a certain high degree of reliability, whether some so-called important criminal intelligence having impact on a person's personal reputation, properties, employment, and so on, should be retained permanently. We have waited for a long time since the enactment of the Ordinance. I hope the Secretary for Security will conduct this review as soon as possible. Otherwise, if political surveillance is carried out under the existing structure and manpower, and coupled with the implementation of Article 23 legislation in the future, we can envisage that intelligence collected by the Government will be permanently retained in its computer system. In fact, many people will be affected. In particular, I want to tell Honourable Members that the most affected persons are not Members belonging to the pan-democratic camp, but those Members in this Chamber belonging to the pro-establishment camp who undertake public offices. We want to establish a sound system. We refuse to condone obscenity or anything that constantly creates a threat on others or gives rise to power abuse. This point is particularly important considering

our system of political accountability or the change of political party after elections. If we do not have an objective, fair and balanced system, our political system will never achieve healthy development.

Chairman, for the above reasons, I hope Honourable Members will support my amendment so that the Government is compelled to come to the discussion table. We can then develop a sound monitoring system which enables our expenditure to be used properly, rather than on some filthy political surveillance.

Mr James TO moved the following motion:

"RESOLVED that head 122 be reduced by \$80,000,000 in respect of subhead 103."

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

MR FREDERICK FUNG (in Cantonese): Chairman, of the three amendments proposed by Mr James TO today, this is the only amendment I will support. As far as I am concerned, it is relatively difficult for me to support deleting funding allocation to the Government pertaining to its established institutions, particularly those relating to public order and security, if we have no clear idea about the impact of cancelling these institutions on the community.

In fact, deleting the relevant funding allocation is tantamount to cancelling particular functions of the concerned departments. Is it true that, as depicted by Mr TO, these departments only have negative functions or do they still have certain positive functions, such as maintaining order and peace in the community? Before I am 100% certain about the answer to this question, I will have difficulty supporting the relevant amendments. Hence, I cannot agree to the amendments proposed by Mr TO just now.

Why do I support this amendment? I forget it was how many years ago when Mr TO started to propose this amendment. Initially, I had opposed to the same out of similar reasons. But then, there was one year when Mrs Regina IP was still the Secretary for Security, and I had asked her why the Government could not provide additional information on the expenditure and explain the usage of the said allocation because for allocations provided for similar functions in the

United Kingdom Parliament, the United Kingdom Government could also provide additional information to explain the usage of the funds.

I do not consider it necessary for the Government to make public all relevant information. But at least, it should act like the United Kingdom Government and submit the relevant items for our scrutiny. At that time, Secretary Regina IP had said that — Mr TO has also mentioned it just now, but my understanding is more than Mr TO's as her reply then was very definite — they would examine whether additional information could be made public. I further asked her then how much time the authorities needed to complete the study. She replied that she hoped Members could give them some time to conduct the study. Afterwards, the Government would report back to the Council. At that time, I had abstained from voting.

In the ensuing two years, I had repeated the same question to her, but to no avail. No longer the Secretary for Security, she is now a Member of this Council. Nowadays, with a new Secretary for Security, no news is yet forthcoming. Therefore, starting from two years ago — if my memory serves me correct — I no longer consider this In fact, we merely want the Secretary to give us more information to account for the usage of the said allocation.

We all know that expenditure is invariably incurred for work pertaining to counter-terrorism such as collecting intelligence, engaging informers and upgrading equipment. I think issues of public order and national security that the United Kingdom Government has to deal with must be more complex than those handled by the SAR Government. Moreover, their work would have to cover the entire country or even other countries. There is no way the Hong Kong Government can be on par with the United Kingdom Government in this respect. The only comparison may be drawn with Beijing.

Nowadays, the Government's undertaking is like a stone dropped into the sea. Therefore, I cannot help but change my stance on the amendment from opposition to abstention and then to support. I support this amendment proposed by Mr TO. I hope the Government can release some information to account for the usage of the said allocation. I do not need a detailed account of all the items from the Government, but we should at least know the details of specific items which can be made public by the Government.

I totally believe that when giving the then undertaking, the former Secretary Regina IP had, according to her judgment, considered that information on some items could be disclosed. However, I do not know for what reasons, nothing was disclosed eventually. For this reason, I consider the amendment proposed by Mr TO worthy of my support. Thank you, Chairman.

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

MR ALAN LEONG (in Cantonese): Chairman, I would like to give a brief account of the position of the Civic Party. The Civic Party supports the amendment of Mr James TO. As Mr James TO said, he is not opposing paying the sum concerned, but due to the lack of transparency on the usage of the sum and the black-box operation, he raises objection. We only hope that the Government will enhance the transparency, so in this context, the Civic Party supports the amendment of Mr James TO. I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR SECURITY (in Cantonese): Chairman, Mr James TO moved the amendment to the Appropriation Bill 2011 proposing that the provision of \$80 million in respect of subhead 103 under head 122, that is, the Hong Kong Police Force (Police Force) "Rewards and Special Services" subhead, be deleted. The authorities strongly oppose this amendment.

The expenditures under the "Rewards and Special Services" subhead involve covert operations of the police, such as operations to combat terrorist activities, serious crimes and narcotic offences, and the special expenditures are essential. The nature of these expenditures is relatively sensitive, which include rewards and "informer's fees", as well as expenditures required for the acquisition and maintenance of some necessary equipment for law enforcement.

Every year, during the debate of this item, and as Mr James TO proposed in the motion earlier, the Special Branch before the transition is mentioned frequently. In fact, as far as I understand, there is no special branch in the existing Police Force, and no section is performing the functions of the former Special Branch. I have to reiterate here, as I did in previous years, that the expenditures under this subhead are definitely not used for political purposes.

The expenditures under "Rewards and Special Services" subhead are essential for the Police Force to maintain public security and the law and order of our society. We understand that Members wish to obtain more information on the expenditures under the "Rewards and Special Services" subhead in order to enhance monitoring. However, given the covert nature of the operations, we must be very careful to ensure that making information on the expenditures of these operations public would not enable criminals to know, through analysing the allocation and trend of expenditures, the operation strategies of the police, thereby allowing them to elude justice or even jeopardizing the safety of front-line police officers and informers providing intelligence to the police. In this connection, the authorities have been striving to strike a proper balance between making such information public to maintain the transparency of police expenditures and protecting the covert operations of law-enforcement agencies to ensure effective law enforcement.

To enhance the transparency of expenditures under subhead 103, in recent years, the authorities have, on the premise of not affecting the law-enforcement capabilities of the police, disclosed relevant statistics on the uses of the provision under this subhead, such as the total number of cases, the total amount of rewards offered, the total number of reward payments made, and so on.

Moreover, since the enactment of the Interception of Communications and Surveillance Ordinance (the Ordinance) in August 2006, the transparency of the entire mechanism for monitoring the covert operations of law-enforcement agencies has been enhanced substantially. The Ordinance provides unequivocally for the authorization criteria for interception of communications and covert surveillance and the appointment of an independent Commissioner on Interception of Communications and Surveillance (the Commissioner) who is tasked with overseeing the compliance by law-enforcement agencies with the relevant requirements under the Ordinance. The Commissioner must submit an annual report to the Chief Executive, listing various items of statistical data on

covert operations taken by law-enforcement agencies, such as the number of authorizations issued for covert operations, the time limit of the authorizations and the types of crimes involved. The Chief Executive will, in accordance with the requirements under the Ordinance, arrange for the submission of the report to the Legislative Council for scrutiny. Since the implementation of the Ordinance, the Commissioner has submitted four annual reports, and the Panel on Security has also discussed these reports thoroughly.

To ensure the proper use of public money, a stringent vetting and approval and monitoring system has been put in place for the vetting and approval and monitoring of the expenditures under the "Rewards and Special Services" subhead. The Police Force have formulated a set of detailed internal vetting and monitoring procedures, including vetting and approving every expenditure item by a designated senior officer and conducting blitz checks from time to time on the details of the expenditures under that particular subhead. The Internal Audit Division of the Police Force will also conduct annual audit on the expenditures under subhead 103. Besides, senior officers from the Audit Commission will conduct independent audit inspections for the accounts under subhead 103 in accordance with the Audit Ordinance. These monitoring measures can ensure strict compliance by relevant officers with government financial and accounting regulations, thereby providing multi-protection.

The expenditures under subhead 103 are essential for the Police Force in maintaining law and order in society and combating serious crimes. The Police Force has, on the premise of not affecting its law-enforcement capabilities, adopted a number of measures to make the information public. If Mr TO's amendment is passed, the law-enforcement capabilities of the police to combat crimes will be seriously impaired, which will in turn threaten the overall law and order situation in Hong Kong. I therefore implore Members to oppose Mr James TO's amendment. Thank you, Chairman.

MR JAMES TO (in Cantonese): Chairman, I want to say one sentence. Will the Secretary welcome the Director of Audit (D of A) to conduct a detailed value-for-money audit on the expenditures in this respect? If he will, please give an answer immediately.

I have asked the D of A to conduct an audit about this, but he has doubt about whether he should do so. If the Secretary for Security indicates that the D of A is welcome to carry out the audit, I will request the D of A to follow up the audit. If an independent and detailed audit is not conducted by a third party, the chasm between us on this issue will never be bridged.

Chairman, in his earlier reply, the Secretary circumvents the issue of whether this Council can set up a special committee to monitor the case in detail. Are Members of this Council not entitled to do so? Can the D of A do so? Will the Secretary for Security answer this immediately.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That Mr James TO

(Mr James TO put up his hand as an indication)

MR JAMES TO (in Cantonese): I would like to raise a point of order. May the Secretary for Security speak after me?

CHAIRMAN (in Cantonese): He may. Secretary for Security, do you wish to speak?

SECRETARY FOR SECURITY (in Cantonese): Chairman, I have to reiterate here that the senior officers of the Audit Commission, that is, the Director of Audit, will conduct independent audit inspections for the accounts under subhead 103 according to the Audit Ordinance.

MR JAMES TO (in Cantonese): Chairman, the Director of Audit (D of A) told this Council that he would only look at the receipts and procedures, but would not conduct detailed audit inspections and value-for-money exercises. Yet, he said he might consider doing so. I am now asking the Secretary for Security whether he will welcome the D of A to do so. If he welcomes the D of A to do

so, I will follow up the issue with the D of A. Since he is in an independent capacity, he can decide not to do such check, but the onus will be on him.

CHAIRMAN (in Cantonese): Secretary for Security, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): Chairman, I have nothing to add.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

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

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

Geographical Constituencies:

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

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 22 were present, two were in favour of the amendment and 20 against it; while among the Members returned by geographical constituencies through direct elections, 23 were present, 13 were in favour of the amendment and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the sum for head 122 stand part of the schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Head 138.

MR ALBERT CHAN (in Cantonese): Chairman, I move that head 138 be reduced by \$3 million in respect of subhead 000.

Chairman, today, I put forth a series of similar amendments to reduce the provision for Under Secretaries and Political Assistants. The authorities have reserved provision for the relevant items, but since no one has been recruited to fill the posts in the past, the provision has not been used.

When I first proposed the amendment, I intended to use a single amendment to reduce all provisions relating to Under Secretaries and Political Assistants in one go. However, restricted by the financial arrangement and

procedures, I must propose the five amendments separately. To save Members' time, I will adopt a principle-based approach in handling these amendments, which means whether or not the present amendment I proposed to head 138 is passed, I will handle my amendments with an across-the-board approach. That is to say, if the present amendment is negated, I will withdraw other amendments involving Under Secretaries and Political Assistants.

However, concerning the amendment to delete the \$200-odd million provision for the Constitutional and Mainland Affairs Bureau, I will not withdraw in any case, for I consider that amendment should be processed separately. Besides, in my view, if the Constitutional and Mainland Affairs Bureau can be deleted completely, it will be the most benevolent achievement. So, I will insist striving for this.

Chairman, the proposed deletion of the provision is not directed at individuals in the posts of Under Secretary or Political Assistant of certain bureaux, nor the respective posts. I propose the deletion of the provisions for I consider that there are serious problems with the operation of the entire political accountability system, the appointment of respective officers and the actual situation of the team. As such, I can only express my vehement views through the proposal of deleting the provision under this head. If the provision can be successfully deleted, thereby preventing the authorities from recruiting people to fill those posts, it will reduce the harm done to the operation of the Government as a whole. I will explain later why this will reduce the harm.

Chairman, the political accountability system was introduced in the era of TUNG Chee-hwa. At that time, TUNG Chee-hwa introduced the political accountability system, for he wanted to ensure effective governance and mode of operation of his governing team. He considered that the political accountability approach and arrangement must be adopted, so that the strengths of Directors of Bureaus could be brought to full play, with a clearer scope of accountability. This system is a watershed for the so-called collective accountability approach adopted in the British-Hong Kong era.

During the British-Hong Kong era, officials of the entire Government adopted the collective accountability approach. More often than not, this approach was open to criticisms, and it was censured that no one would be held

accountable under the collective accountability arrangement. When the Government made a mistake, no one had to take the blame, particularly political responsibility. After assuming office for some time, TUNG Chee-hwa considered that the former system might prevent the appointed Directors of Bureaux from playing to their strengths, leadership or status, and thereby dragging their feet in implementing the various policies they intended to promote.

In the TUNG Chee-hwa era, it was rumoured and pointed out in many analyses that under the then civil service system, Directors of Bureaux or Secretaries of Departments under the accountability system coming from the Civil Service did not respect TUNG Chee-hwa or refused to accept his leading status, affecting TUNG Chee-hwa's leading role in actuality. Whether it would be better if he had more or less involvement in leadership was another matter. Had he played a lesser role in leadership, there might be fewer disasters. This is not the focus of my amendment. The most important issue is that since the introduction of the accountability system, what changes have taken places in terms of concepts and actual situation in the course of development. This is the crux of the problem.

When TUNG Chee-hwa proposed the political accountability system, I had pointed out that if a bureau was led by a single person, and if the support was inadequate, the leadership would be tantamount to a "semi-lame-duck" authority. Under the accountability system back then, the person appointed by TUNG Chee-hwa to be the Director of Bureau or the Secretary of Department would be "landed" to a government department with deep-seated culture and intricate relations.

As we all know, there are different "stables" in government departments. Am I right? It involved when and from which "stable" a certain person is from. Hence, at the time when Anson CHAN was the Chief Secretary for Administration, there was a group called the "handbag gang". If a person belonged to a certain "stable", and senior officers of the Civil Service were controlled by persons from that stable, it would be easier for that person to implement policies and to get promoted.

At that time, there was serious problem regarding the compatibility between the "stable" system and the accountability system. Many Directors of Bureaux and Permanent Secretaries held divergent views, which made it

extremely difficult to take any work forward. When the Director of Bureau, who was an officer under the political accountability system, wanted to implement certain policies but the Permanent Secretary considered the policies unacceptable, the latter would employ various tactics to delay or impede the implementation. They might "slip" information to the media to vilify the policy, trying to impede the implementation by all means. In a nutshell, if those at the senior level, particularly Permanent Secretaries, were unconvinced and dissatisfied, and considered the policies unacceptable, the accountability system would only exist in name and failing to serve its purpose.

After some time, the authorities found the approach infeasible, for Directors of Bureaux had been fighting lone battles without any support. As I mentioned earlier, it became extremely difficult for them to carry out their work. It was then proposed that some people should be identified to provide assistance to Directors of Bureaux under the accountability system, and the two posts, Under Secretary and Political Assistant, were then created.

At that time, I agreed with this concept. In my view, under an accountability system, there should be a team, and it would be more effective and more desirable if the work was carried out by a team. The situations in the United States and the United Kingdom are the same. When there is a replacement of governments and senior officials, the staff of the entire office will have to change. For instance, when a certain minister is replaced, nearly all staff in the minister's office will be replaced at the same time. As a minister, if he has to employ people he does not know or he has never worked with as his secretary or assistant, there will naturally be a lot of problems in work adaptation, for their ideologies and mode of work may not necessarily be the same, and the issue of trust will raise particular concern.

Hence, when the Government first proposed the creation of the posts of Under Secretary and Political Assistant, I agreed with the proposal. At that time, I had the concept and expectation that those three persons would work as a team. But the subsequent mode of operation in actuality brought tears and laughter. The subsequent development indicated that upon the appointment of the Director of Bureau, the Under Secretary and the Political Assistant recruited did not have any practical co-operative relationship with the Director of Bureau, and there was no actual linkage in terms of their political stance. I criticize this phenomenon as a "blind match".

This practice will lead to a serious problem. In the past, there were problems in co-operation between Directors of Bureaux and the civil service team. At present, two more persons are suddenly added to the scene. There may be teething problems between Under Secretaries and Political Assistants and Directors of Bureaux, as well as teething problems between Under Secretaries, Political Assistants and civil servants; as a result, it may cause even more serious, worse and uglier damage and influence than before. The present system has become more and more undesirable and queer, a weirdo I should say. People are not accountable under the accountability system. The civil service team does not seem like a civil service team. Collective accountability has been reduced to naught. The entire mode of operation is just freak.

In particular, in the past two years, we noticed that various Policy Bureaux have employed Under Secretaries and Political Assistants, but the mode of operation of Policy Bureaux varies, depending on the approach adopted by individual Directors of Bureaux. If the Director of Bureau is more capable and proactive, more often than not, the Director of Bureau will handle all the issues on his or her own and does not require assistance from others. As for some Policy Bureaux with a relatively complicated purview, the Political Assistants concerned may have to undertake some relatively trivial tasks. Some Directors of Bureaux are in a semi-disappearance or semi-transparent stage, while some Directors of Bureaux simply do not trust their Under Secretaries, and certain Directors of Bureaux are completely incapable.

The appointment of these people by Donald TSANG is simply and purely a kind of reward, which is in *de facto* a transfer of interests. For political parties and people that have made an effort to support him during the election, the candidates they nominated will naturally be appointed to the relevant posts. He gives no consideration to the capability and background of those persons, nor the contribution they will make in future. I have read the entire list of Political Assistants. Apart from a few candidates who have relevant experience, the remaining candidates of Political Assistants are retired civil servants. This approach is incomprehensible. Certainly, in actual operation, this approach may help the Directors of Bureaux. This is particularly the case for the Secretary for Security. If the Directors of Bureau are not familiar with certain areas of work, they may need the assistance of some experienced civil servants in retirement. However, this is not the spirit behind the establishment of the Political Assistant post under the political accountability system.

At that time, the purpose of creating the posts of Under Secretary and Political Assistant was to nurture talents in some measure, so that arrangements and opportunities for promotion and succession could be introduced into the accountability system in future. Though the approach of employing retired civil servants as Political Assistants may help the Directors of Bureaux in actuality, it does not adhere to the original concept of appointing Political Assistants, that is, to enable young members of political parties to gain experience in certain posts, so that these political talents may succeed the work under the accountability system in future.

Regarding the existing accountability system, if we have a literature research on political theories or administrative management, we will not find such freak situation like Hong Kong. Besides, the accountability system has given rise to many problems. As I mentioned earlier, there are teething problems between Directors of Bureaux and the entire team, including civil servants. Moreover, this will hamper the spirit or morale of certain senior civil servants, particularly civil servants in Principal Assistant Secretary (PAS) posts in Policy Bureaux. Though Political Assistants employed may be ludicrously inexperienced, their starting salary is \$134,000, whereas the starting salary of PASs is only \$117,000. Under the Administrative Officer (AO) structure, one has to pass many trials and challenges before getting to this position, and it usually takes over 10 years to be promoted to that position. First, they have to pass a territory-wide open examination to become AOs; these people are the cream of society. Then, they have to get pass various trials and challenges, and after more than 10 years, those with the most outstanding performance will become PASs. However, all of a sudden, the Government finds some unknown persons to be the Political Assistants, who may only be the followers of certain political parties or the children of certain bigwigs, and yet, they are given a monthly salary of \$134,000.

Under the present system, Political Assistants are at a higher position than PASs in some measure. Buddy, how uncomfortable it will be for this group of officials to take such an insult under the civil service framework. Besides, when a rookie has to deal with an experienced AO, it will definitely give rise to many ludicrous and freak scenarios in communications and operation.

Hence, I hope Members will understand that the political accountability system is now causing serious problems to the governance of the Government. Yesterday, Ms Miriam LAU asked why Hong Kong would encounter certain

special problems, and I think the accountability system is one of the causes. I hope Members will understand the justifications of this amendment.

Thank you, Chairman.

Mr Albert CHAN moved the following motion:

"RESOLVED that head 138 be reduced by \$3,000,000 in respect of subhead 000."

CHAIRMAN (in Cantonese): I now suspend the Council until 2.30 pm.

12.35 pm

Meeting suspended.

2.30 pm

Committee then resumed.

CHAIRMAN (in Cantonese): I now resume the Council and continue to process the amendment to head 138 proposed by Mr Albert CHAN. Does any Member wish to speak?

MR WONG YUK-MAN (in Cantonese): Chairman, the political appointment system is a farce. The amendment proposed by Mr Albert CHAN today seeks to delete the budget provisions for the following vacancies: the Under Secretary for Development, the Under Secretary for Labour and Welfare, the Political Assistant for Constitutional and Mainland Affairs, the Political Assistant for Commerce and Economic Development, and the Political Assistant for Transport and Housing. In gist, it seeks to stop the Government from making further recruitment under the so-called political appointment system.

We have to take this opportunity to deny the "Further Development of the Political Appointment System" implemented by the SAR Government since 2008. This is absolutely a political farce, laying bare the ugliness in political appointment. Should a review not be conducted?

The first incident is about the possession of dual nationalities, which aroused doubt over their loyalty to Hong Kong. In May 2008, the media disclosed that five out of the eight designated Under Secretaries held dual nationalities. The designated Under Secretary for Constitutional and Mainland Affairs, Raymond TAM, and the Under Secretary for Financial Services and the Treasury, Julia LEUNG, possessed the British right of abode; the designated Under Secretary for Food and Health, Gabriel Matthew LEUNG, and the designated Under Secretary for Commerce and Economic Development, Gregory SO, held Canadian passports, and the designated Under Secretary for the Environment, Kitty POON, held a United States passport.

It is stipulated in Article 61 of the Basic Law that, "The principal officials of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country and have ordinarily resided in Hong Kong for a continuous period of not less than 15 years." Though Under Secretaries are not principal officials stipulated under the Basic Law of Hong Kong, they may act in the positions of Directors of Bureaux which are appointed by the Central Government. Hence, by the same token, the requirement on not possessing foreign nationality is applicable to Under Secretaries who may act in the positions of Directors of Bureaux.

The nationality issue has triggered off the concern about loyalty. The reality proves that Under Secretaries have to act in the positions of Directors of Bureaux quite often. One of them, named Gregory SO, is in that position now. When the Government designed the system in the first place, had it not thought about the issue on foreign nationality and the requirement prohibiting principal officials from holding foreign nationalities? Now, I act like a granny recalling the old days. In fact, I would like to tell Members of the inherent inadequacies and the subsequent maladministration of the system. The authorities have not carefully and seriously considered this factor before launching the further development of the political appointment system.

On 10 June, three weeks after the nationality furore, Chief Executive Donald TSANG held a press conference in tandem with Norman CHAN, the incumbent Director of the Chief Executive's Office, Stephen LAM, the Secretary for Constitutional and Mainland Affairs, and the 17 upstarts to politics, to give an account of the incident. In the speech made by Donald TSANG, he apologized for the continual disputes in society aroused by the arrangement, but he had not explained the issue on foreign nationality.

Apart from nationality, the remuneration and appointment procedures were severely criticized by various sectors. In June 2008, the Under Secretary for Constitutional and Mainland Affairs, Raymond TAM, and the Under Secretary for Commerce and Economic Development, Gregory SO, first took office. But then, they were queried for assuming office in the previous month and the date of assuming office had not been announced in the Gazette. What a system is this? Have serious and careful thoughts been given?

Even on the assumption that political appointment is a correct approach, the appointment procedures are just a mess. When it was intimidated by the media, it simply chickened out. Why did not it stand firm and ask them to not to renounce their foreign nationalities? Did it dare to do so? It did not request them to renounce their foreign nationalities, but allowed them to act in the positions of Directors of Bureaux. What kind of arrangement was it?

The second incident is about their sense of inferiority and the cover-up of their remuneration. However, I will not talk about these issues, for I have only 15 minutes, not enough time for me as I have lots to say. The third incident More often than not, we target the issues but not individuals, but it is sometimes inevitable to mention individuals when we are targeting the issue. The third point is about the arbitrary show of name cards and the abuse of power.

The fourth incident is about the "up-to-standard performance and frozen remuneration". I have to talk about this. The Secretary for Constitutional and Mainland Affairs, Stephen LAM, and the Director of the Chief Executive's Office, Raymond TAM, met with the media on 13 August concerning the mid-term review of the remuneration for Under Secretaries and Political Assistants. They were asked why those with better performance did not get a pay rise, but were subject to a salary freeze under the broad-brush approach. Secretary Stephen LAM gave an extremely paradoxical answer. He said, "They meet the requirement of work, so their salary will remain unchanged". What

kind of rationale is this? If they got a pass and met the required standard, why were they not given a pay rise openly with justifications? The authorities obviously got a skeleton in the closet. Buddy, they know a pay rise cannot be introduced, for it will arouse public resentment.

Did the Government have the "guts"? On the one hand, it said that their performance met the requirement, but on the other hand, their salary would be frozen. Honestly, how come those people can still remain in senior posts? I do not want to say that they are shameless, but they definitely have the greed for money. They are "tortured" frequently and were disapproved by other on the first day of work. I am sympathetic to the 17 upstarts in politics. They are not the one to blame, for it is the overall system that causes them to lose face. Since they choose to stay in spite of all these, the only reasonable deduction is that they stay for money. Some people may say, "No, they will get higher pay if they take up positions other than the present one". However, this is only applicable to one or two of them.

The fifth incident is their unwillingness to leave the public servant positions and the creation of the "revolving door" arrangement. This is very ridiculous. On 13 October 2010, when Donald TSANG delivered the policy address, he pointed out that for democracy to bring about good governance and benefit our people, political talent was of the utmost importance. It was said that the political appointment system introduced in 2002 and the creation of the Under Secretary and Political Assistant positions had enhanced the political capacity of the Government. There should be a diverse pool of political talent consisting of political party members, academics, business people, professionals and elite civil servants. To attract more people from different sectors to take up political appointment, the authorities need to consider more flexible arrangements such as a "revolving door".

Are these high-sounding reasons justified? In October 2007, a report titled the Report on Further Development of the Political Appointment System (the Report) set out the so-called way forward proposed by the Government on the creation of the two additional layers of appointment positions, that is, the Deputy Directors of Bureaux and Political Assistants. In the Report written by the Government, the feasibility of setting up a "revolving door" has been dealt with unequivocally, which has been laid down clearly in paragraphs 5.15 and 5.16.

The Government's proposal on setting up a "revolving door" will completely undermine the principle of maintaining political neutrality of civil servants. This is not my comment but that of Joseph WONG, the former Secretary for Civil Service. Early in 2007, Donald TSANG pointed out unequivocally in a statement announcing the expansion of the accountability system that the Government would not set up a "revolving door" system. Then, in the further development of the political appointment system, he mentioned the "revolving door" again. Again, in the policy address, the "revolving door" was mentioned. I do not bother whether such arrangement will smooth out the operation of the Government, it may bring about such effect, but the point is he should not go back on his words.

In the year when the idea of a "revolving door" was mentioned, that is last year or 2010, the Secretary announced on 18 October on behalf of the Government that, "We understand that for any new policies and changes of the Government, it should wait for the fourth Chief Executive and the SAR Government to carry out." Secretary, please jot down this remark, for it was made by you. In other words, the proposals mentioned in the policy address earlier were simply lies. I do not know the reason. I wonder if it is because of the strong opposition that the "revolving door" proposal has to be shelved and called off. The issue will then be left to the successor, a person with the last name FAN, LEUNG or TANG, to deal with.

Moreover, there is the problem of "Political Assistants get lost, Under Secretaries are incapable, and civil servants bear all the brunt". According to the information of the Public Opinion Programme of the University of Hong Kong, the results of the seven surveys conducted between July 2008 and January this year indicated that among the 19 Under Secretaries and Political Assistants, only five of them got a score in recognition rate, but the highest recognition rate was below 5%, with some even less than 1%. Among the several hundreds of respondents, only one or two could tell the names of Under Secretaries and Political Assistants. If you query those scientific data and consider that if one or two in several hundreds of respondents know them, it implies that a lot of people out of the 7 million people in Hong Kong also know them; can we put it this way? Definitely not.

Last December, a study conducted by the SynergyNet pointed out that as at the time of study, Political Assistants under eight Policy Bureaux had been in service for over two years. The Political Assistant with the highest meeting

attendance had only attended eight meetings. The three Political Assistants from the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), namely Raymond CHEUNG of the Development Bureau, Caspar TSUI of the Home Affairs Bureau and Katherine NG of the Financial Services and the Treasury, have the highest meeting attendance during their two years of service — sorry, I make a mistake, their meeting attendance should be the lowest, I always think that the honourable DAB will supervise and press them. These Political Assistants have only attended the meetings of the Legislative Council three times. I will not dwell on the content of the report here. If they are called Political Assistants, what are their responsibilities? What is the difference between Political Assistants and Administrative Assistants? It is unjustified for they are earning higher income than others. The Government may employ Political Assistants, but what are their actual duties? Should they be responsible for playing tug-of-war with the DAB? One of the Political Assistants has played tug-of-war with the DAB. Will he join us in the game of tug-of-war? In what way is the work of Political Assistants related to politics?

Chairman, luckily, I am allowed to speak repeatedly in this session of debate. I mean I can speak for one or two more times. I can hardly finish all I want to speak in 15 minutes. I have already spoken for 11 minutes now. Luckily, I can speak again later. Secretary, just wait patiently and do not leave, I have loads of words to tell you. I will be more concise and I will raise my points when I later speak again.

The accountability system is a system set up on various pretexts. I have to point out here that since the implementation of the Accountability System on Principal Officials in 2002, three officials have stepped down or resigned. I have gathered the necessary information. The declarations made by the three officials are different. These include the full text of the resignation declaration of the then Financial Secretary Anthony LEUNG made on 16 July 2003, the resignation of YEOH Eng-kiong, and Mrs IP — she is not at the meeting today, if I have time, I will read out her declaration later. However, I do not have time to read out the three declarations now. I would like to bring out one point. Actually, the resignation of Anthony LEUNG took place earlier, not on 16 July. He applied for resignation early on 10 March, and I also have that declaration. However, Mr TUNG Chee-hwa persuaded him to stay and said that he had lofty sentiments. After the disclosure of his car-purchase incident, Mr TUNG still commended him for having lofty sentiments and persuaded him to stay. This

was a big mistake. Mr TUNG's persuasion for LEUNG to stay had severely tarnished his own reputation, and Anthony LEUNG, who would have left the service earlier, had made a mess during his few months in service. As a result 500 000 people took to the streets, and this is one of the reasons.

He knew he had to be accountable and considered himself not suitable for the post of Financial Secretary, so on 10 March, he submitted his resignation to the incumbent Chief Executive. Nonetheless, the incumbent Chief Executive persuaded him to stay and said Anthony LEUNG had lofty sentiments. This sparked a huge public outcry. By 16 July, Wednesday, the full text of the resignation declaration of Anthony LEUNG was published, but this was slightly different from the one submitted on 10 March. In the declaration of 10 March, he admitted he had violated the requirements under the accountability system. Does the Secretary remember this? I will give a copy to you later, and you do not have to look for it everywhere. Anthony LEUNG wanted to resign but the Government did not approve. Among the resignation declarations of the three, only YEOH Eng-kiong was willing to undertake accountability. You may check up on their resignation letters. Should they undertake accountability? Do they find this really hard to cope with the feeling of "losing face"?

Chairman, YEOH Eng-kiong admitted accountability in his declaration. Mrs Regina IP left the service for personal reasons, but whether it was truly out of personal reasons, I do not want to debate with Mrs IP, a "Mrs Beauty". Given the political environment at the time, we all understand it at heart. However, among the three resignation letters, only YEOH Eng-kiong had admitted accountability. I must state this point. At present, officials do not have to undertake accountability. Members may notice the mess of the Budget this year. Yet, "Brother Beard" continues to play his role of a benevolent official, he only has to be cheeky and get used to the scolding. What about WONG Yuk-man? Just regard him as a "Mad Dog" getting out of control. Just let him say and that is it. Does the Secretary really think that I will do nothing after making a remark?

Regarding the accountability system, I do not want to dwell on the part relating to principal officials. Today, Mr Albert CHAN proposes the deletion of the provisions for vacancies of Under Secretary and Political Assistant. So, those bureaux do not have to consider recruiting Political Assistants for this term. Am I right? However, the Financial Secretary wants to reserve a sum for this

purpose. Why does he do so? The Financial Secretary should say, "My term of office would end after a year or so, and I do not need to employ a Political Assistant, so the amount will be reserved for the next term." In that case, it will be unnecessary for the Budget to provide for that amount. Any reduction in expenditure must be supported by sufficient justification. However, my amendment differs from other amendments seeking to impose a one-month salary reduction, for I see no point in doing so. I still have another amendment proposing the deletion of the entire Central Policy Unit, for it is "worthless". Thank you, Chairman.

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

MR FREDERICK FUNG (in Cantonese): Chairman, I support this amendment. However, my argument is completely different from, or even contrary to, that of Mr WONG Yuk-man.

Chairman, basically, I support the implementation of the Accountability System for Principal Officials. The change of the system should be attributed to the difference between the pre-1997 and post-1997 eras, where the Governor of Hong Kong was replaced by the Chief Executive. The Governor of Hong Kong was appointed by Britain, and we had no way to express our views and raise questions, nor did we have the right to choose. Even one-man small coterie election was unavailable. At present, the Chief Executive is elected by small coterie election. We hope that the Chief Executive will be selected by universal suffrage in 2017, as this has been pointed out repeatedly in this Council by the incumbent Chief Executive and Secretary Stephen LAM. Since the Chief Executive is selected by election, he differs from the Governor for having his own election platform. This is the case for the former Chief Executive Mr TUNG and the incumbent Chief Executive of Mr TSANG. Obviously, platforms differ. Take the case of Mr TUNG and Mr TSANG as an example. Mr TUNG implemented the housing policy of providing 85 000 flats, public rental housing and Home Ownership Scheme and home loan schemes, but sorry, Mr TSANG, the incumbent Chief Executive, has abolished all these schemes. That means individual Chief Executives will have different political stances and different political views on the development of Hong Kong. The Accountability System for Principal Officials allows the Chief Executive to appoint people sharing his

ideals of his own accord, so that they can implement the policies together. Appointing people with common mindset will serve the purpose of assisting the Chief Executive to implement measures proposed in his platform, incorporating ideas in the platform into measures and work of the Government. Hence, the Accountability System for Principal Officials is necessary.

I recalled that in 1998, after the reunification, the Hong Kong Association for Democracy and People's Livelihood (ADPL) met with Mr TUNG and proposed to him that a ministerial system had to be implemented in Hong Kong. At that time, we did not use the term "Accountability System for Principal Officials" but called it the "ministerial system". We could no longer follow the practice adopted before 1997 under the British rule, where Administrative Officers (AOs) were posted as the officers-in-charge of various departments, responsible for the formulation and implementation of policies, as well as the relevant consultation. It is not a correct approach to have AOs responsible for all the work, ranging from consultation and decision to execution. This is not a system of civil officials, but a civil service system incorporating political decisions in the civil official system.

Around 1997, there was an embarrassing situation. In the pre-1997 era governed by Governor Chris PATTEN, Michael SUEN was the Secretary for Constitutional Affairs, if my memory has not failed me. At that time, the Governor proposed the abolition of the appointment system for all District Council (DC) members. Michael SUEN was responsible for securing the agreement of the pro-establishment camp today, which was the "non-supportive camp for Governor Chris PATTEN" back then, in abolishing the appointment system for DC members. However, after Mr TUNG assumed the office of the Chief Executive, he decided to reinstate the appointment system. At that time, Secretary Michael SUEN was again responsible for persuading Members to agree with the reinstatement of the appointment system and explaining the merits of the appointment system. In this case, we can see the importance of appointing Directors of Bureaux in carrying out lobbying and execution work, for he is the official responsible for introducing the vision of the Chief Executive.

However, if the policies implemented by different executive heads, the Governor in the past and the Chief Executive at present, are completely different, whereas the same person has to give completely contradictory remarks on the same issue, it will be embarrassing. We may look at the existing political

systems in all countries. When there is a change in presidency or office of prime ministers, in nearly all cases, the entire governing team will be reshuffled. However, the governing team only includes people responsible for the formulation and execution of policies, but not civil servants. Hence, it is evident that after the implementation of the election system for Chief Executive in 1997, there is an actual need to separate civil officials and politically appointed officials under two completely separate systems.

The system has been implemented since 2002. By now, I think the system has not reached the mature stage and it is not sound. However, it does not mean that the system is inadequate. The system is immature for it fails to display the team spirit, as the election platform put forth by the Chief Executive has not been fully implemented. Particularly in the case of Chief Executive Donald TSANG, who had set out a platform more comprehensive than that of Chief Executive TUNG. Though there were still inadequacies in this platform, I think the three Secretaries of Departments and the 12 Directors of Bureaux have not fully implemented the election platform presented by Chief Executive Donald TSANG. Second, they fail to present that the team as a whole share the same vision. Last but not least, they fail to manifest the spirit of mutual assistance and support within a team.

Under the Accountability System for Principal Officials, a certain official is responsible for a certain policy, and if anything goes wrong with that policy, that official should be held responsible. The system enables us to clearly and easily identify the Director of Bureau or the Secretary for Department to be held accountable. Honestly, before 1997, there were officials at the rank of Director of Bureau making mistakes in several policy areas successively, but none of them had tendered resignation. As mentioned by Mr WONG Yuk-man earlier, after 1997, three Directors of Bureaux had resigned. No matter what reasons or excuses they used, they had, after all, resigned. They resigned because there were some problems, though Mr WONG Yuk-man said that they resigned on personal reasons rather than the actual reasons behind.

Take the short-piling case before 1997 as an example. The problem was caused by the incumbent Secretary for Housing, but he did not resign. Eventually, the Chairman of the Hong Kong Housing Authority (HA) resigned. Certainly, the Chairman of the HA was an appointed official, but she was not a civil servant, nor an officer at the directorate rank. The chaos in operation at the

new airport was another example, and the then Chief Secretary Anson CHAN should be held accountable. Moreover, in the promotion of the political system of Governor Chris PATTEN, Mr SUEN had first supported the abolition of the appointment system and then after the change of rule, he made an about-turn to support the reinstatement of the appointment system. These problems arose because the officials had to play dual roles. In fact, it was very difficult for the official-in-charge to explain the case. However, they were allowed to stay in office and did not have to resign. On the contrary, since the implementation of the Accountability System for Principal Officials, three Directors of Bureaux had actually resigned in succession, as Mr WONG Yuk-man has mentioned earlier, I will not repeat it here.

Hence, to put it in this perspective, I think the problems do not lie in the system itself but on execution. Regarding the many problems raised by Mr WONG Yuk-man earlier, such as the holding of overseas passports, the absence of terms of office after assuming office, the show of name cards, no change in salary and the "revolving door", and so on, they are not problems with the system. The crux of the problem lies in the identification of subordinates, that is, how to identify ministers, Directors of Bureaux, Secretaries of Departments and Political Assistants. Should the Under Secretaries be identified by the Chief Executive or the Directors of Bureaux? These are problems relating to the appointment system and the teamwork of the members of the team. In the final analysis, these problems may be attributed to the requirement that no political party is allowed to be the ruling party and no members of political parties are allowed to stand for the Chief Executive election. How can an independent candidate being elected the Chief Executive find a group of persons sharing the same vision to work with him? Apart from political parties, I do not think any individual can achieve this.

Therefore, given the change in the fundamental system, I support the Accountability System for Principal Officials personally. Regarding the situation in 1998 when we promoted this system to Mr TUNG, I think the content of discussion at the time may be made public now, for it is a matter of public affairs. In fact, Mr TUNG disagreed with this at the time. He considered that the ministerial system, which is the present Accountability System of Principal Officials, could not be implemented in Hong Kong, for it was difficult to accept a large group, like a political party, as the ruling party under the Basic Law. Besides, at that time, he guessed that the authorities in Beijing would not accept

this. As such, it was unexpected that he would implement the Accountability System for Principal Officials in 2002. To me and the ADPL, we agree that the ministerial system or the existing distorted ministerial system, that is, the Accountability System for Principal Officials, should be implemented in Hong Kong.

I would like to raise one final point. It is only through the implementation of the Accountability System for Principal Officials that the civil official system for civil servants can be established, so that civil servants can be truly independent, where policies and decisions are linked with the platform and have no relationship with civil servants. This is the only feasible approach. The approach adopted before 1997 could not achieve this purpose at all. Hence, for this general principle, I consider it necessary for Hong Kong to implement the Accountability System for Principal Officials. However, people responsible for ruling and people responsible for providing assistance in ruling have to mature and develop expeditiously. The public will allow you no time, for you are receiving a huge sum of salaries ranging from over \$100,000 to \$300,000 every month. I completely disagree with the comments made by Mr Albert CHAN this morning. He said that instead of spending over \$100,000 to train those officials, the resources should be spent on training him. However, training is out of the question. Since these officials are earning handsome salary at high positions, they should perform their work properly. Even if the performance of one of them is far from satisfactory, the entire team will be dragged down.

Then, why do I support this amendment? Let me explain. Several amendments with similar content will be proposed by Members later, I will explain my position in one go now and will not repeat it later. Regarding individual officials under the accountability system, I agree that they should be subject to a one-month salary deduction, for the several officials named by colleagues, including Sorry, I will talk about this later, for we are not talking about the performance of officials but unfilled vacancies, such as the vacancies of Under Secretary. In this respect, I think the Government should not apply for provision for filling those vacancies, because the time left is limited. There is only one year and three months before the term of office of this Government ends. In more than three years out of the five-year term, the Government has not employed these people, nor has it used the manpower resource in this respect. Yet in the remaining one year or so, which is only one third of its term of office, the Government reserves a sum for recruiting officers to fill these posts. We do not know who will eventually take up these posts.

Will they be new faces or old faces? Will talents be identified from the Civil Service? No matter which mode of appointment is adopted, I doubt the need to reserve a sum at this stage for filling these vacancies, for the persons appointed will only be serving for about 15 months. If there was no such need in the 45 out of 60 months in the past, why will there be such a need in the remaining 15 months, just in contradiction to the situation in the past 45 months?

Hence, I consider this application unnecessary. Besides, by the time the appointments are confirmed, the term of office of these officials will soon expire. The next Chief Executive will definitely be a new face. He does not necessarily need the Directors of Bureaux, Under Secretaries and Political Assistants employed under the existing Accountability System for Principal Officials. Under such circumstance, I agree with the two amendments to be moved by Mr Albert CHAN shortly. Regarding the salary cuts for Under Secretaries, I will explain it later, for it is a separate issue. With the principles and reasons set out above, I hope I have made it clear that though my voting inclination is the same as that of Mr Albert CHAN, my reasons are different.

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

MR IP KWOK-HIM (in Cantonese): Chairman, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) will oppose the amendment of Mr Albert CHAN. The main reason is that the DAB considers the accountability system worthy of support from the beginning till now.

I have listened to Mr Albert CHAN attentively. He mentioned his support for the system in the first place and quoted the example of the United States, stating the demand for political talents in the course of democratic development in democratic countries or regions. He said it was necessary for Hong Kong to have its own governing team. When changes and replacements occur, a governing team will be formed. Only this will allow the Government to implement its policies effectively.

He then quoted a number of examples to reflect the prevailing problems. The problems he pointed out are true, including the teething problems between officials under the accountability system and civil officials. He cited many examples and mentioned the disputes arisen among them. He pointed out that

both Under Secretaries and Political Assistants had shown immature behaviour and problems in the course. I think all these are the reality, which are palpable problems.

However, Hong Kong is at the juncture of gradual change, from the constitutional system under the colonial rule to a system allowing "Hong Kong people ruling Hong Kong" and "high degree of autonomy". We need more talents to work for the SAR, so that Hong Kong as a whole can gear towards the development direction laid down in the Basic Law. In all these aspects, we need political talents.

Let us look into the current situation of nurturing political talents. Apart from the Legislative Council, District Councils and political parties, the pool of political talents is very limited. The accountability system enables certain political talents involve in the operation of the Government and gain more in-depth understanding of the Government. The DAB all along considers this an extremely good channel. Hence, in our view, the system is worthy of support.

At this stage, Members should note that the accountability system has been implemented for some time. To say that it is a system operated for a long time, I think it is definitely not the case. Actually, in the long span of history, this is a very short period. If we do not allow time for the system to develop, mature and advance, it will not be conducive to the future political development in Hong Kong.

Certainly, we notice that the amendment proposed by Mr Albert CHAN this time mainly seeks to delete the unspent part of the provision. He has not denied all the Under Secretaries and Political Assistants in service and requested all of them to stop drawing salary from now on. He only said that further recruitment should not be carried out.

The issue may be considered with far-sightedness, so that the existing SAR Government can nurture talents to realize "Hong Kong people ruling Hong Kong". If the issue is put into this perspective, we consider the proposal to cut the provision for their salary a negative approach. Hence, the DAB disagrees with this amendment of Mr Albert CHAN. Thank you, Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Chairman, before giving my response to Mr Albert CHAN's amendment, I have to reiterate the background and the thinking of the Government in formulating the political appointment system. First, all posts of Deputy Directors of Bureaux and Political Assistants were created in December 2007 with the approval of the Financial Committee of the Legislative Council. All along, the Government has been extremely strict in appointing the officials concerned, basing on the principle of meritocracy. One of the most important and crucial considerations for the Government to implement the political appointment system is to support the constitutional system in Hong Kong in gearing towards universal suffrage. As mentioned by Mr Frederick FUNG earlier, the system on a politically appointed team will synchronize with the election system in taking Hong Kong forward to achieve universal suffrage, for the two are complementary.

Six years later, that is 2017, the Chief Executive of Hong Kong will be elected by universal suffrage. Certain candidates will be nominated by a nomination committee, all eligible electors in the territory may select the Chief Executive through the "one man, one vote" universal suffrage. I perceive that around 2017, potential candidates will organize their own team. Some members of the team will form the think tank, some will canvass votes at district level or in the sectors concerned, some will draft the political platform and some will carry out promotion activities to solicit the support of the public and the co-operation of sectors. Hence, when the candidate is successfully elected as the Chief Executive, he or she will select appointees to the politically appointed posts of Secretaries of Departments, Directors of Bureaux and other assistants from his or her election team.

Now, the Government has taken the lead to set up the political appointment system, so that when the election system in Hong Kong matures, the leader of Hong Kong elected by universal suffrage will have his or her own governing team. At the same time, from 2002 onwards, the Government has reserved the most important and crucial and the best part of the civil official system in Hong

Kong, that is, the civil service permanent establishment system. The civil service permanent establishment system is a professional, permanent and politically neutral system. The post of Permanent Secretary is created in every Policy Bureau. The concept of the arrangement is to ensure that the regular operation of various Policy Bureaux and departments will not be affected by the outgoing and incoming Chief Executive with a five-year term and the change of his or her governing team. There may be a change of political leadership but the continuity of public service and policies will be maintained.

Back then, when the civil official system of Permanent Secretaries was set up, the Government had drawn reference to the practices of other common law countries, including Britain, Canada, Australia and New Zealand, and so on. Hence, with the establishment of the political appointment system for Secretaries of Departments and Directors of Bureaux in 2002 and the appointment of the politically appointed Deputy Directors of Bureaux and Political Assistants in 2008, Hong Kong has now entered a new stage. At present, political assessments and analyses are handled by Under Secretaries and Political Assistants, whereas policy analyses and proposals are handled by Permanent Secretaries and colleagues concerned in the Civil Service. Directors of Bureaux are the brain of each Policy Bureau, they have to formulate policies by consolidating the two aspects, that is the analyses and proposals of policies and political assessments. Hence, the existing system is more comprehensive than the past system. The Under Secretaries assumed office in the middle of 2008. Since then, Under Secretaries attend the meetings of the Legislative Council and panels to help explain the policies of Policy Bureaux, and take up official acting appointment during duty visits and leave of Directors of Bureaux. Political Assistants are responsible for liaising with various sectors, District Councils, political parties and groupings and organizations, and so on, and providing political analyses and conclusion reports, their work are conducive to policy formulation of the bureaux.

Chairman, various think tanks have closely monitored the implementation of the political appointment system. For instance, the SynergyNet issued the "Review of the Governance Performance of the HKSAR Government 2010" in December last year. According to their assessment, the total number of meetings of the Legislative Council attended by civil servants since 2008 has dropped by 5.8%, and the total number of speeches they made has dropped by about 50%. On the contrary, the total number of meetings attended by

politically appointed officials has increased remarkably by 20.7%, and the total number of speeches they made has doubled that of civil servants. I perceive this result long ago. I recall that in 2007, when the Government proposed to the Legislative Council the creation of the posts of Deputy Directors of Bureaux, it made an overall undertaking that Directors or Deputy Directors of Bureaux would attend monthly meetings of panels of the Legislative Council to handle one to two subjects that were the most important, crucial and political, and for subjects relating to technical and policy issues, they would be left to colleagues in the Civil Service to explain. It is evident that the existing system starts working and is taking shape.

Before I come to my conclusion, I would like to give my responses to Members. Mr Albert CHAN said that he supported the establishment of the political appointment system in the first place, but he considered that no apparent effect had been achieved since the establishment. This is absolutely not the case in reality. First, the system was establishment in 2002. With the Third Chief Executive took office in 2007, the entire governing team, including the Secretaries of Departments, the Directors and Deputy Directors of Bureaux and Political Assistants, has acknowledged the election platform put forth by the Third Chief Executive during the election, and it will carry out and implement the political platform continuously in the next five years.

Second, as Members have noticed, since the implementation of the political appointment system in 2002, politically appointed officials concerned, including individual Directors of Bureaux, have bowed in apology to the public due to certain political incidents, and certain Directors of Bureaux had resigned because of these incidents. On the positive side, under the system, the entire team supports the Chief Executive in implementing the political platform. On the pessimistic side, in the event of any undesirable incident, someone will surely be willing to shoulder the political responsibility.

Mr Albert CHAN also asked whether persons in the three posts, namely the Director of Bureau, the Under Secretary and the Political Assistant, are a team or a squad. I can tell Members about the situation in the Constitutional and Mainland Affairs Bureau, which I belong to, as an example. I work very well with the Under Secretary and senior civil servants in my Bureau, and the distribution of work in the Bureau is extremely clear. In addition to acting in my post and handling constitutional affairs, the Under Secretary will also handle

issues relating to human rights. As for the Permanent Secretary, apart from assisting me in handling policy issues, he is also responsible for co-ordinating Mainland affairs. The internal operation of our team is regular and smooth.

Mr WONG Yuk-man has raised several issues, including nationality and right of abode overseas. We did have to deal with these issues soon after Under Secretaries assumed office. However, since the middle of 2008, the Government's position has been crystal clear. According to the Basic Law, colleagues taking up the posts of Deputy Directors of Bureaux do not have to renounce their foreign nationality. Despite that, the Administration will tell them before they assume office that people inside and outside the legislature have strong views about politically appointed officials at the rank of Deputy Director of Bureau holding right of abode overseas. Hence, the appointees have to assess the situation themselves to decide whether they will retain or renounce their foreign passports. The situation has become stable since 2008, and the issue has been settled.

Moreover, Mr WONG Yuk-man has particularly brought up the Chief Executive's further consideration of enhancing the "revolving door" arrangement as mentioned in the 2010 Policy Address. Actually, the Chief Executive was only presenting a general principle at that time, and I have explained this point to Members subsequently. Our overall thinking in the long run is to enhance the effectiveness of the "revolving door". Take the case in the United States as an example. Office bearers of the posts of ministers and deputy ministers, and so on, will mostly return to the think tank to continue with their policy research work when their four-year term of office is over. After the next election, if they are successfully elected, they will return to the Government as politically appointed officials. Actually, we hope that the system in Hong Kong will be more regular, smooth and comprehensive, so that political talents identified will have more prospects and will contribute to Hong Kong both inside and outside the Government.

When it comes to political talents, I have to make it clear that the purpose of the political appointment system, particularly the two tiers of Under Secretaries and Political Assistants, is not for training political talents. After joining the Government, they have to be involved in "real battles", handling issues and policy subjects required to be dealt with at the time. The system of Under Secretaries

and Political Assistants is a means for us to identify talents. Members may notice that during the last couple of years, certain Under Secretaries have been promoted to positions at the rank of Directors. From the nuclear incident or the travel alert incident, Members may recognize or acknowledge the performance of certain Under Secretaries. The system is still in the initial stage, for it has only been less than nine years since 2002 and less than three years since 2008. However, the three tiers of political appointments under the political appointment system have begun to take shape.

By now, there are only 40 posts under the political appointment system in the Government as a whole. A few years ago, when we set the level at 40 posts, we had our consideration. Chairman, the term of the Chief Executive is five years, whereas that of the President of the United States is four years. Whenever there is a change in political leadership, there will be great change of officials. In Washington, there will be the replacement of several thousands of officials once every four years. However, in Hong Kong, the replacement will involve a maximum of 40 officials, for we wish to provide a relatively stable political situation in Hong Kong. Actually, we have examined the arrangements for the presidential system and the political appointment system adopted overseas. Under the present system, we have a politically appointed team and the cabinet system, yet we have retained the permanent secretary system adopted by the common law region of the United Kingdom. Hence, regarding the two systems, be it the one adopted in the United Kingdom or the one in the United States, we have adapted all the good points to apply in Hong Kong.

Chairman, I would like to make one final point. The amendment today considers that since there is only a year or so left regarding the term of the existing Government, the Government should not continue to reserve fiscal provision for the two Under Secretary posts and the several Political Assistant posts. Chairman, as Members have been handling public affairs of various departments in Hong Kong for many years, they understand that once government posts are created with the approval of the Finance Committee of the Legislative Council, fiscal provision has to be provided for under the head of each of the departments concerned. However, I have to admit that since the term of office of these politically appointed posts is five years, it has become more and more difficult to overcome this "barrier" to recruit suitable candidates for the posts with a remaining term of only one year or so. Principles are after all principles.

Since posts approved by the Finance Committee of the Legislative Council have been created, we have to make appropriate provision in the Budget. Hence, I implore Members to oppose the amendment of Mr Albert CHAN.

Thank you, Chairman.

CHAIRMAN (in Cantonese): I intend to ask whether any Member wish to speak again, and if no Member wish to speak, I will ask the Secretary to reply, but I notice that Mr WONG Yuk-man requests to speak again. Before I ask Mr WONG to speak, I would like to remind Honourable Members that the arrangement to allow Members to speak more than once seeks to allow Members to have in-depth debate on the relevant subject, it is thus undesirable for Members to regard the arrangement as a means to deliver a long speech in various sections. Therefore, Mr WONG, please be concise and to the point as far as possible when you speak.

MR WONG YUK-MAN (in Cantonese): I would like to thank Chairman for reminding me. Just like you, I want to be succinct. Chairman, I certainly need to respond to the Secretary after he has responded to my remarks just now. I will not shorten this speech. When you have time, please go over this speech of 8 000 to 9 000 words slowly. I think that I have responsibly given an account, is that right?

"When a man destitute of benevolence is in a high station, he thereby disseminates his wickedness among all below him"¹. Does the Secretary understand that? The accountability system of principal officials comprises the word "accountability". The Hong Kong Government appoints people based on their ability, whereas the Mainland authorities advocate that ability and moral integrity are equally important. So, "when a man destitute of benevolence is in a high station, he thereby disseminates his wickedness among all below him". The public have similarly high expectations of us and they can use their votes to evict me, right? We have to repay the debts in the form of their votes. However, I cannot use their votes to ask the Secretary to get away. Is that right? Should the Government emphasize both ability and moral integrity in selecting

¹ <<http://ctext.org/mengzi>>

officials? The standards must not be set by the Government and there must be objective standards that are accepted by most Hong Kong people. Some people have asked Mrs FAN if she would run in the Chief Executive election, and she has said that the most important requirement of the Chief Executive is that he or she must have the trust of the Central Authorities and Hong Kong people. Chairman, what is the basis of the trust of Hong Kong people? I have the right to vote and I can cast a vote of confidence. Am I right? I must have the right to vote before I can cast a vote of confidence for Alan LEONG, right? Whoever has a choice is the boss, right? Under the current composition of the Government, we cannot vote for you, right?

Hence, the accountability system, ministerial system or government cabinet system which we frequently mentioned are normal practices in the Western democratic countries. There are many mechanisms in place to ensure that talents are subject to monitoring. Is the consent of the Senate of the United States for people appointed by the Government not required? Do designate officials not required to be questioned by legislators? The legislative body can at least exercise the right of consent in respect of the appointment and dismissal of officials. Do we have such powers, Secretary? That is why I have said that the Secretary has congenital deficiency. For this reason, "when a man destitute of benevolence is in a high station, he thereby disseminates his wickedness among all below him".

Second, the standards for appointment. So long as the persons possess both the ability and the political integrity and have popular mandate, we should appoint them, be they are family members or enemies. Has the Government done so? "We should not avoid family members in recommending insiders", but buddy, the Government practises nepotism when choosing someone for a job. It also emphasizes affinity differences; the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has three seats while the Liberal Party only has one. Nevertheless, I am not sure if Mr Howard YOUNG still belongs to the Liberal Party. As he is not an incumbent Member, I suppose he is not a member of the Liberal Party. What? Is he still a member of the Liberal Party? He is not a Legislative Council Member now but he is still a member of the Liberal Party. Even though it is a bit farfetched, I will consider that this is a benefit given to the Liberal Party. But, the DAB has three Members. The principle is that "we should not avoid family members when recommending insiders, and we

should not rule out enemies when recommending outsiders", why has the Government not appointed members of the opposition faction?

Third, "if people who know small tricks always go to your place, real talents will not show up". All appointed persons are not good enough, right? I am not saying that these people only know small tricks. I hope the Under Secretaries and Political Assistants will listen to me for I have not made any derogatory remarks about their moral integrity. What I mean is that, appointed persons have extremely low popular mandate. If the public consider the whole team, a three-tier structure, a soccer team or whatsoever is not good enough, other capable persons will not want to become part of it. "If people who know small tricks always go to your place, real talents do not show up", this is the Chinese's philosophy for choosing a person for a job.

We claim that we have reunited with our Motherland and we care so much about China, and the Government has implemented national education, why is reference not made to the way in which the wise kings in history chose a person for a job? The society was not democratic at that time, and the wise monarchs practiced meritocracy. Taking Emperor Tang Taizong as an example; during the Golden Years of Zhenguan that people often talked about, Emperor Tang Taizong seized power viciously. As described by Niccolo MACHIAVELLI, he was as ferocious as a lion, as ambitious as a wolf and as cunning as a fox. He killed his brother in the Xuanwu Gate incident and then forced his father, LI Yuan, to make him emperor. During the Golden Years of Zhenguan, he trusted WEI Zheng with an important position. WEI Zheng had once suggested that his elder and younger brothers (Prince Jiancheng and the King of Qi Yuanji) should kill LI Shimin (who consequently became Emperor Tang Taizong). WEI Zheng suggested that there would be endless trouble if LI Shimin was not killed. Emperor Tang Taizong subsequently trusted WEI Zheng with an important position and WEI Zheng was the one who remonstrated with him during the Golden Years of Zhenguan. On one occasion, Emperor Tang Taizong vowed to kill WEI Zheng but his wife, the Empress, advised him not to do so. She told him that although WEI Zheng's words might not be pleasing, not killing him would demonstrate the Emperor's brilliance.

Under the autocratic rule of Emperor Tang Taizong, he could modestly accept admonitions and practice meritocracy. WEI Zheng was obviously his enemy as he once suggested that his brother should kill him. However, the

Emperor appreciated him and considered him terrific. Why had WEI Zheng suggested that his brothers should kill him? This proved that he was highly intelligent and Emperor Tang Taizong agreed. Emperor Tang Taizong would not regard WEI Zheng as an enemy because of his previous suggestion; instead, he trusted him with an important position, was that right?

CHAIRMAN (in Cantonese): Mr WONG, it was a very appealing historical story but please speak on the amendment.

MR WONG YUK-MAN (in Cantonese): Chairman, it is because the Secretary has just bragged about the accountability system and so-called further political appointment. As I cannot restrain my anger, I have to tell him the historical story. Chairman, I beg your pardon but I find it rather educational and it will not do any harm. I am asking the Secretary not to brag about anything here for he has congenital disorders. Am I right? We now propose to delete the proposed provision speaking of deleting the proposed provision, as Legislative Council Members, particularly as representatives of the parliamentary assembly in a democratic country this is our duty to reduce the provisions very often. Buddy, am I right? We must reduce the provisions on certain grounds. As someone has refuted my arguments, I must respond if I find that there is something wrong. The Secretary has been bragging about how the money will be well spent. He has admitted that his Policy Bureau will not recruit new staff, but he said that it was a matter of principle to keep the money. I really do not quite understand. Regarding the current Budget the Budget involves technical issues, right? The Secretary is now keeping the money for the recruitment of staff, but the bureau is not going to recruit new staff. The Secretary will certainly not recruit new staff within his term of office, so why does he have to keep the money? It is very logical for me to propose reducing this provision. Am I right in saying so? If the Secretary would like to discuss the principle, he has to wait until the next term because he still needs to review the accountability system and further appointment. The new Chief Executive may consider it necessary to appoint two political assistants at the time, right? An application for provisions will again be made then. Is that right?

I would also like to respond to Mr Frederick FUNG's remarks. He said that his views were contrary to mine but I am not sure how exactly our views are

different. I cannot figure out what he meant to say. If he supports the provisions, he certainly needs to give an explanation, right? He still belongs to the democratic camp. As I am not sure, we have checked the voting records. I remember that he supported the provisions at a meeting of the Finance Committee. In that case, he certainly supports the further appointment system, right? Now that he supports the further appointment system, he should monitor it to find out if they are doing well. Should we continue to allow the recruitment of new staff? If they are not doing very well, we should freeze their estimates. We are not really freezing their estimates after all. The Secretary has just indicated that no new staff will be recruited, right? Why should he be given the money if he will not recruit new staff? Does this make sense? Hence, I hope that Members would support this amendment.

MR FREDERICK FUNG (in Cantonese): Chairman, the remarks that I am going to make are very simple; Mr WONG Yuk-man has not heard what I have just said. I said that I support not providing fundings for staff recruitment by the Constitutional and Mainland Affairs Bureau, but I did not say that that I oppose the Accountability System for Principal Officials. As I have just mentioned, my stance is that I support the Accountability System for Principal Officials but I still do not agree that such provisions should be made. My reasons differ from those given by Mr WONG Yuk-man.

I will simply give three reasons. First, there is not much time left. The term of office of each term is 60 months and there are now only 15 months left. Since no one has not been recruited to fill the post in the past 45 months, why someone should be recruited for the remaining 15 months?

CHAIRMAN (in Cantonese): Mr FUNG, please try your best to be concise when you repeat the arguments you have just made.

MR FREDERICK FUNG (in Cantonese): All right, I understand that. I just want to make this point clear for Mr WONG Yuk-man. I am going to make some points that have not been made before.

The second reason is that the appointment is not attractive. If a person is invited at the very beginning, he will have a term of office of five years. If he is invited now, his term of office will just be one year and three months; thus, the appointment is not attractive enough. Moreover, he would be rebuked by Members. As we all know, officials are rebuked by many Members when they attend meetings here. Many Members will rebuke officials whatever actions they take. The remuneration is not worth for these treatment.

Third, practically speaking, if people are recruited to work for around 15 months, they will at least have to spend a month or so familiarizing with the work of the department before starting to perform their functions. It is not practical than having them start working right after they have been recruited. Hence, since recruitment has not been done for such a long time, it may as well not to recruit any staff now.

Thank you, Chairman.

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

DR MARGARET NG (in Cantonese): Chairman, I just want to say that I disagree to what Mr WONG Yuk-man has just said. He has given certain reasons we agree to Mr Albert CHAN's amendment and we actually have very strong views on the accountability system. However, Mr WONG Yuk-man has just cited a historical story about LI Shimin who appointed WEI Zheng. LI Shimin hated WEI Zheng and wanted to kill him. Finally, he listened to his wife and had not killed WEI Zheng, which demonstrated that he was really brilliant. Therefore, Mr WONG Yuk-man used this as an example to illustrate that "we should not rule out enemies when recommending outsiders". Why does he not support the Government's accountability system? The reason is that the Government fails to follow the principles that "we should not avoid family members when recommending insiders, and we should not rule out enemies when recommending outsiders". In fact, Mr WONG Yuk-man may I certainly admire his historical accomplishment a lot but he may not be as insightful as I am in respect of politics. Why had Emperor Tang Taizong not killed WEI Zheng? I believe that he did not want to do something that was too disgraceful. He already hated this person and he would not listen to him no matter what he said.

Why kill him then? If he had not killed him and had spared his life, it would look better and he might have a good name in history.

Nevertheless, Chairman, we utterly detest — I am sorry; I should not say we utterly detest — the most important reason why we have criticized this accountability system is that things have been done so disgracefully. Donald TSANG, other accountability officials and the Financial Secretary have been very stingy. Even though they are biased towards one side, they should not have done something so disgraceful. They should behave in a more dignified and generous manner, and they should conduct comprehensive consultations. Chairman, this is not purely about whether the Government should be hypocritical. Instead, when the Government has openly done something so disgracefully, the public will lose all confidence in the accountability system. For this reason, Chairman, I think the Government should really reconsider how its practice should be. Even though the Government detests the opposition faction, it should not have acted so disgracefully. Thank you, Chairman.

MR WONG YUK-MAN (in Cantonese): Chairman, I strongly agree to the analysis just made by Dr Margaret NG but I have just given the example that "we should not rule out enemies when recommending outsiders" to illustrate this point. I am not asking the Government to follow suit and it also lacks the ability to do so. The key still lies in the system.

We oppose the accountability system on a clear premise. First, this is not an elected government and its governing team lacks legitimacy. The Government which lacks legitimacy has produced the so-called accountability system that is "neither fish nor fowl". It not only the worst thing is that the system lacks accountability. In my earlier speech, I have given an example to illustrate that only Dr YEOH Eng-kiong admitted that accountability was important. That was why he stepped down, right? He was the only one who had done so. Members can refer to the relevant papers and his letter of resignation. There are congenital disorders.

I can accept the remarks made by Dr Margaret NG just now that my sayings are not political. I am not tactful enough but I like talking. Thank you, Chairman.

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

(Mr Albert CHAN raised his hand to indicate a wish to speak)

CHAIRMAN (in Cantonese): Mr CHAN, I will allow you to speak for the last time. Secretary, do you wish to speak again?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): As the Chairman allows, I will say a few words.

Mr WONG Yuk-man has a high literacy level indeed and what he has just said is very appealing. However, his profession should be teaching and editing rather than story telling. The Golden Years of Zhenguan as he has just mentioned is really an important page in national history. If I remember correctly, there is a TV series called "The Legend of Zhenguan" comprising nearly 80 episodes. It is a very nice series that Members may want to make reference to.

Back to the topic, Chairman; Mr WONG Yuk-man and other Members have said that we still do not have universal suffrage. So, they consider this political appointment system as infeasible. Yet, facts have proven that the Secretaries of Departments, Directors of Bureaux and politically appointed officials have given the public an account of our work every day through attending meetings of the Legislative Council and briefing the media. If there is ineffective public monitoring, I would like to ask why some people would have bowed and apologized. Mr WONG Yuk-man has also admitted that — why has a Director of Bureau resigned to assume political responsibility? As facts have proven, even though the election of the Chief Executive by universal suffrage will only be implemented in 2017, that is, quite some time from now, under the political appointment system provided by the Basic Law, the SAR Government should be accountable to the legislature, this kind of monitoring is effective.

We also realize that all political leaders, including the Chief Executive currently returned by indirect election, need to have people who share the same ideologies to work for them. People who support their platforms should become members of his governing team and work as Secretaries of Departments and

Directors of Bureaux. Yet, "there is little common ground for understanding between persons of differing principles". I believe that Members present understand this, in particular, Mr WONG Yuk-man; otherwise, why have some Members recently left the League of Social Democrats? For this reason, political work requires concerted efforts. We are now taking the first step to implement the political appointment system, laying a foundation for the election of the Chief Executive by universal suffrage in 2017.

Lastly, I would like to respond to the remarks made by Mr WONG Yuk-man and Mr Frederick FUNG again. Why do we keep the financial provision as there are only about 15 months left? While it is difficult to recruit more staff, we will not necessarily stop recruiting staff. Furthermore, though there are views that it is unnecessary to keep this financial provision since the officials will leave after a five-year term of office, politically speaking, one week is already a very long time, and we cannot rule out that meritocracy will still be practised in the short run, and we also cannot rule out that we may be able to recruit suitable candidates.

Chairman, I so submit.

MR ALBERT CHAN (in Cantonese): Chairman, the Secretary has linked up the withdrawal of Mr WONG Yuk-man and I from the League of Social Democrats (LSD) with the debate about the accountability system but the two things are basically unrelated. This proves that he has confusing ideas and he is ignorant about certain concepts, which is extremely ridiculous.

Chairman, when the Secretary talked about our accountability system just now, he said that the staff recruited have to get involved in the "real battle". I wonder why he used these words, have he just seen the movie "3D Sex and Zen"? (*Laughter*) The Secretary has said these words though he proclaimed that he is well cultured, I really do not know that he has joined the LSD.

He has also ironically remarked that the Washington Government only dismissed several thousand staff members during the transition of government to satirize why Hong Kong should dismiss so many people. It is ridiculous for him to compare Hong Kong with Washington; he is really a frog in a well and he does not know what changes have happened in this world.

It is extremely absurd for him to bundle together the changes in our political system, our government system and persons appointed under a political appointment system with the government replacement in Washington. Chairman, do you find this ridiculous and shameful? I do not know what aspects of the Government in Hong Kong can be compared with that in the United States. Can we compare the conditions in the United States concerning the separation of powers, the formation of the governing team after the election of the President, the approaches and practices concerning the appointment of talents, with Hong Kong's practices of "mismatching" and nepotism? I can only sigh with regret. The members of the governing team are arrogant and conceited but they are not well educated and low in ability. They really think that they have reached the level of the American Government. No wonder Hong Kong has gradually been sinking under the governance of these mediocrities after the reunification.

Chairman, I would like to say that the officials concerned have not officially responded to a few points raised during our discussions, and that many people are at a loss. I have made it very clear at the very beginning that initially, the overall concept of the political accountability system did not have a democratic element. This is a serious problem. Under this "bird cage" framework, the Basic Law was formulated and the SAR Government was established, TUNG Chee-hwa had unilaterally proposed the system without the people's mandate. This is a fact. As a responsible Member, I should monitor government policies and expenditures. How can the impacts or adverse effects of this system which has no legitimacy — I do not fully approve of the concept — be minimized? I feel obliged to express my views but this does not mean that I approve of the legal status or legitimacy of the accountability system.

Back to the whole accountability system. First, when it was initially designed, the original intent of the accountability system was extremely confusing and unclear. This is a simple accountability system but not much has been stated about the extent of accountability; the circumstances under which the officials should resign to assume responsibilities; the circumstances under which conversions should be made; the roles of accountability officials and other officials; and the major differences from the so-called collective responsibility system before; and the operational differences. TUNG Chee-hwa had loosely proposed the accountability system. As a result, subjective judgments have to be made when there are problems with the Policy Bureau and they have made

various mistakes, and about whether or not the accountability officials concerned should resign. There are no objective criteria.

As Yuk-man has just mentioned, only one of the three resigned officials has done so according to the principle of being accountable. This reflects that there is a serious problem in respect of the accountability system itself and its implementation. If there are explicit principles as we have noticed, many ministers in foreign countries have resigned. There were many railway accidents in our great Motherland many years ago, and the then Minister of Railways had taken the blame and resigned. Our accountability system has just been implemented at that time. However, as we have observed, many officials have made mistakes in the eight to nine years since the implementation of the accountability system in Hong Kong, but only one official — as Yuk-man has just said — YEOH Eng-kiong stepped down to bear political accountability. Nevertheless, it can be said that numerous problems with Policy Bureaux have been found in the past seven to eight years.

Why are the so-called accountability officials in Hong Kong not required to take the blame and resign after so many problems have occurred? Is it because they are brazen or because the Chief Executive are shielding shortcomings and covering up mistakes? Are all accountability officials supporting one another and ignoring the spirit of the accountability system? A comprehensive review has not been conducted in Hong Kong in so many years. Unfortunately, the academics in Hong Kong have not conducted in-depth studies, so that they can theoretically and authoritatively point out the problems with the accountability system in operation. In respect of actual implementation, have we seen in the past years how the accountability officials have been accountable, how the directors of bureaux have formulated the relevant policies and borne legal and political responsibilities for these policies? We do not have a clear picture.

Second, concerning the issue of selecting the right persons; the Government has always attached importance to meritocracy. We have repeatedly said that it emphasizes nepotism more than meritocracy. I have reviewed some information on the appointment of Political Assistants and Under Secretaries under the accountability system — I have asked my assistant to do some analyses — many of them have high academic qualifications but there are two very serious problems. As Honourable colleagues should have noticed, for the governing teams in foreign countries, when a member of the Democratic

Party has become the President of the United States, he will seek assistance from other members of the Democratic Party. He will sometimes seek assistance from members of the Republican Party but these people and the President may have rather similar philosophy and closer relations.

The same is true in the United Kingdom. If a certain political party becomes the ruling party, after the ministers have been appointed, 99% of the members of the governing team will come from the same political party. Except in the case of a coalition, after the ministers have been appointed, talented young people from the same political party will become their assistants. When a minister from the United Kingdom visit Hong Kong, the accompanying assistants are frequently young people aged between 20 and 30, and some of them just graduated from universities two to three years ago. We know from the name cards we received that they belong to the Conservative Party. First, a minister will appoint members of the same political party under this system. These young persons may have co-operated with him in the past during his election or in other areas. Alternatively, these talented young people may have conducted studies or have accumulated experience in certain policies or areas as members of the political party. So, when the minister needs people to assist him, he will look for assistants from the same political party, who share with him the same concepts and ideology, and have similar political affiliation and experience.

The principle for appointment under the accountability system is premised on the same political philosophy. Nevertheless, the appointments are really puzzling. Some of the persons appointed are civil servants while some have come from different Policy Bureaux. For example, the official in charge of financial affairs may have worked in the Hong Kong Monetary Authority. Yet, some appointment does not make sense. All of a sudden, a person who has been working in the Jockey Club has been appointed. Another person has previously worked with the Disneyland is now working with the Environment Bureau and his work has nothing to do with the Disneyland. Another person appointed was a teacher and she has suddenly become the Under Secretary for the Environment. Let us look at the confusing relationship; we are talking about meritocracy but what talents do they have for formulating policies for the Policy Bureaux? After a year or so, some Under Secretaries are still reading out prepared speeches in the Legislative Council, and reporters jeered at them. These Under Secretaries keep repeating the same answers when they are asked further questions. Yuk-man

called Secretary Stephen LAM a "human recorder". Buddy, many Under Secretaries in Hong Kong are "human recorders". Although meritocracy is emphasized, as it turns out, the politically accountable officials in Hong Kong are best at playing the part of "human recorders", and they are the best among our officials.

The appointment of some academics might be due to the fact they had frequently praised and supported Donald TSANG in their articles. As these academics are regarded as nice, without bad image, and are relatively neutral and well accepted by people from various sides, the Government thus appointed them to fill the job vacancies. Yet, for officials who are responsible for actual operation of the policy bureau, say, if I were I the Permanent Secretary, I would be displeased, right? How can such persons be appointed? The Government has appointed an unknown person who has no experience in the relevant area to become the supervisor of a senior civil servant who has more than 20 years of experience. So, the civil servants will just comply in public but oppose in private. Certainly, most civil servants in Hong Kong still maintain certain professional standards; however, we are worried about this kind of relationship. We are really worried that such inappropriate appointments of inappropriate candidates will lead to serious internal divergence or conflicts in the operation of the Government. When I delivered my speech for the first time just now, I have touched upon the teething problem which will give rise to extremely serious problems.

The second point is about political background as I have just mentioned. Since all officials should be accountable, it is very important for the team to have the same political philosophy. Nonetheless, I have found that the composition is mostly technical in nature. For example, people who have been engaged in the financial field are appointed to be in charge of financial affairs. Thus, priority is given to technical consideration rather than political ideologies. This is a very serious problem and sometimes, people from an irrelevant field are appointed. In my view, one of the reasons why former Secretary Frederick MA was unwilling to stay in the post was that the Government had appointed a member of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to keep a watchful eye on him. A leftist member of the DAB was appointed to be the Under Secretary to keep a watchful eye on him. Did the Government not trust Frederick MA? In appointing a person to co-operate with Secretary

Frederick MA, should a person with similar background be appointed? The Government could appoint someone who had co-operated with Frederick MA before to be his assistant, rather than appoint a person from the dominant political party in Hong Kong who was an unknown figure in the areas of politics and public participation? Buddy, I would also leave if I were him, right? Hence, the arrangement is absolutely bewildering.

Another problem is the age problem that I have also mentioned. As regards the accountability system, in many overseas countries, mostly young people will be appointed to be the subordinates of secretaries or ministers; very seldom will retired civil servants be appointed. In political parties, the assistants of accountability officials are generally regarded as persons to be nurtured in the succession ladder. This is a very important. After a person has taken up the post for a few years and has accumulated experience, he will be entrusted with important tasks. Buddy, a political party is not a ruling party every year, right? In all political parties, there are many young people waiting for opportunities to take up important posts; it is a precious experience for them to be the assistants to ministers, so that they can gain practical political experience. If a retired civil servant takes up the post, the Director of Bureau will of course be happy as the person will be very familiar with the work. He might be a member of the police force and he might have worked in different departments. If a few persons familiar with departmental operation become the assistants to the Director of Bureau, the Director of Bureau will certainly find it easier to handle his work. This is inevitable because the Director of Bureau may not be as familiar as these persons about administrative operation and certain relations. However, insofar as the design of the accountability system is concerned, this practice is one of the major factors undermining the system. Some assistants are appointed under the accountability system for political training, with a view to nurturing talents. Under the present circumstances, such an arrangement is non-existent in certain bureaux. Many assistants are fairly young, however, we do not see any long term training programmes for political talents, and we have an impression that the relevant arrangements are mainly made as a return for political interests. I hope Honourable colleagues would understand that and support the amendment I moved today.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

CHAIRMAN (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

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

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

Mr Paul CHAN abstained.

Geographical Constituencies:

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

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 27 were present, four were in favour of the amendment, 22 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the reduced sum for head 138 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Head 141.

CHAIRMAN (in Cantonese): As Mr Albert CHAN has withdrawn his amendment to head 141, I now call upon Mr CHEUNG Kwok-che to speak and move his amendment.

MR CHEUNG KWOK-CHE (in Cantonese): Chairman, I move that head 141 be reduced by \$281,666 in respect of subhead 000.

Chairman, after last week's debate, I think everyone would learn that this Budget is a failure. Members of the pan-democratic camp, pro-establishment camp and the business sector have the impression that the Government has not listened attentively to public opinion when collecting views on the Budget, and it just acted arbitrarily.

Frankly speaking, when the Financial Secretary first assumed office, he gave me an impression that he was willing to listen to public opinion. In particular, in advertising this year's Budget, the Financial Secretary has discarded his haughty airs and joked about his beard. So, we mistakenly thought that the Financial Secretary truly intended to gauge public opinion and formulated a good Budget.

However, right after the delivery of the Budget, we knew that the approachable advertisement was like "crying up wine but selling vinegar". Not only Members but also the general public think that the Financial Secretary has just worked behind closed doors in formulating this Budget, and he was just playing on words when he said that "one does not need to have a beard to express his views". In fact, when people without a beard have voiced their views, the Government just regarded them as talking nonsense. He is just making minor patch-ups and taking short-sighted measures in response to public demands.

I believe that last week, we had lengthy discussions on areas in the Budget that should be criticized. Today, I would like to focus on discussing the deficiencies in respect of social welfare and explain why the Secretary for Labour and Welfare should have one-month salary reduction, amounting to around \$280,000.

As always, the Government has been rather tightfisted in setting the estimates for social welfare this year, and it is not ready to make long-term social welfare investments. The Budget only contains 16 paragraphs about social welfare, less than 10% of the whole Budget of 193 paragraphs. Certainly, we cannot comment on the adequacy of resources allocated and on the commitment undertaken by the Government in helping the disadvantages based on the number of paragraphs on this subject, but what are the actual contents?

Chairman, as the Government has claimed, there will be \$4.2 billion additional recurrent expenditure on social welfare in the fiscal year 2011-2012, which is the largest rate of increase among various expenditures. Yes, there will be the largest rate of increase; so what? The expenditures will partly be used for implementing of one-off measures. Now that the problem of wealth gap is very serious in Hong Kong, the grassroots may not be able to benefit from economic growth. It is the basic responsibility of the Government to re-allocate wealth, thus, whether or not there is the largest rate of increase in resources will be meaningless. The most important point is whether the services can meet the demands.

Taking day activity centres as an example, there were 105 people on the waiting list in 2004 but the number increased to 355 in September 2010. Besides, the number of people on the waiting list for sheltered workshops increased from 918 in 2004 to 1 840 in 2010. If the Government keeps

increasing resources, how come there is still a continuous increase in the number of people on the waiting lists? Does this indicate that the resources allocated are extremely insufficient?

Concerning the average waiting time for residential care homes for the elderly, Secretary Matthew CHEUNG may have heard this issue more often than we do. The waiting time for subvented and contract residential care homes has remained high and the waiting time for nursing homes has increased from 36 months in 2006 to 40 months in 2010.

Chairman, I hope that the Secretary can answer our questions in this Council. The elderly have to wait three years for residential care homes, and there are more elderly persons on the waiting list who passed away without being allocated a place. According to statistics, 3.4 elderly persons have passed away when an elderly person is allocated a place in a care and attention home. Is this fair and reasonable? Is this an acceptable level in our civilized and developed society? If the Secretary can admit in this Council that elderly persons will not be allocated places in residential care homes after they have waited for three years, and it is fair and reasonable for them not to be allocated such places before they passed away, I will not ask the Government any more questions about increasing residential care places.

Chairman, Secretary Matthew CHEUNG said yesterday that the Labour and Welfare Bureau had certain plans, but we note that some Integrated Community Centre for Mental Wellness and District Support Centre for Persons with Disabilities cannot find premises to provide service, and that there is a serious shortage of paramedical staff. This phenomenon of "having money but no land, and having land but no staff" reflects the importance of early planning. The Secretary referred yesterday to the annual exchanges on service projects between the Social Welfare Department (SWD) and the Hong Kong Council of Social Service. These meetings only serve to review each year the social problems social problems, but not formulate long-term welfare plans.

Chairman, I actually do not understand why the Government still firmly refuses to make long-term planning for social welfare. Honestly speaking, some issues such as inflation are affected by economic cycles and they usually occur suddenly. The Government can hardly ease inflationary pressure through long-term plans. For this reason, it is acceptable for the Financial Secretary to

adopt short-term one-off measures such as cash handouts or tax rebate to ease inflationary pressure. Nevertheless, the Government can get hold of a lot of data such as birth rate, the ageing population to make projections in respect of education, healthcare and social welfare services. If plans and some long-term policies are formulated, they will definitely be conducive to the future governance of the Government and the well-being of the public.

I have asked the Labour and Welfare Bureau and the SWD many questions regarding this Budget, and I have deliberately asked quite a few questions about the Government's plans for various services in the coming five years for meeting future demands. I am sure Secretary CHEUNG knows very well how the questions should be answered because his answers are always the same, "The Government will continue to pay close attention to the demands for the services, and it will deploy resources for increasing the quota for the services as the case may be", or similar words. I hope the Secretary would answer our questions. In answering questions this way, does it mean that the Government still insists on dealing with the demands for social services on an ad hoc basis?

To strive for long-term plans, we Members participated in the march against the Budget last Sunday, hoping that the Government would listen to people's aspirations. Although not many people have participated in the march — honestly speaking, that is what I have expected because we cannot clearly and succinctly explain the importance of long-term planning to the general public. Furthermore, the Government's proposal to hand out cash can greatly alleviate people's dissatisfaction — but that does not mean that the public do not want long-term plans. I hope that the Government would not become self-complacent and consider the Budget can be endorsed.

Undeniably, the Government's giving some instant benefits to the public such as rates reliefs, tax rebate and cash handouts, can have immediate effects in reducing public grievances. But, this is not necessarily the best solution in light of long-term social development because measures to hand out "candies" can just stop momentary pain and they cannot solve deep-seated conflicts. Does the Government have long-term policies targeting two major problems, namely the wealth gap and ageing population? Do the Chief Executive and the accountability officials think that the long-term responsibilities should be left to the next term Government now that their terms of office will expire soon?

Although the former Chief Executive, Mr TUNG Chee-hwa, had stepped down because of repeated administrative blunders and "leg pain", he was more far-sighted than the incumbent Chief Executive, to be fair. Mr TUNG made plans for the future of Hong Kong. If the Chief Executive admits that he cannot make plans for the future of Hong Kong, he can resign earlier using "chest pain" as an excuse, so that another person with the ability and determination can serve Hong Kong people.

Chairman, when I first joined this Council, I had worked with Secretary Matthew CHEUNG for two to three years, so I know that the Secretary is a pragmatic person who often "walks on two legs", and I have observed that he is deeply concerned about the socially disadvantaged groups. Yet, having the heart does not mean having the ability, especially under the Chief Executive's strong governance, many Directors of Bureaux have encountered constraints in administration. Regardless of whether the Secretary has failed to demonstrate his skills under the pressure imposed by the upper echelons, as an accountability official, the Secretary should not shirk his political responsibility for social welfare services being at a standstill. For this reason, I request that the Secretary should have one-month salary reduction.

Chairman, let me tell you how this amount of some \$200,000 can be used to help the socially disadvantaged groups.

The monthly unit cost of elderly care homes is \$5,800, \$280,000 can provide 48 elderly persons with one month's services; the monthly unit cost of nursing homes is slightly higher at around \$12,000, \$280,000 can provide 23 elderly persons with one month's services; the monthly unit cost of residential homes for people with disabilities is \$9,700, \$280,000 can provide 29 persons with disabilities with one month's care-and-attention home services; the monthly unit cost of day activity centres is \$6,400, \$280,000 can provide 44 persons with disabilities with one month's training in these centres; the monthly cost of pre-school services for children with disabilities is \$6,200, \$280,000 can benefit 45 children with disabilities; the monthly unit cost of sheltered workshops is \$3,600, \$280,000 can help 78 persons with disabilities; the average monthly cost of each child in small group homes is more than \$13,000, \$280,000 can help 22 children; the monthly cost for each child under foster care service is \$9,000, \$280,000 can help 31 children stay one month in foster homes; on the basis that the monthly expenditure of a four-member CSSA household is \$9,000, \$280,000

can meet the expenditures of 31 CSSA households in a month; and the monthly cost of each outreaching social work case is \$500, the one-month salary of the Secretary can be used to deal with 560 cases.

Chairman, I know that there is a remote chance for passing this amendment, but even if the amendment is not passed, I hope the Secretary would donate to some socially disadvantaged groups his salary of not more than \$300,000.

"As life on earth is so unhappy, we may as well let our hair hang down and enjoy ourselves on a sail boat tomorrow"; LI Bai, a poet in the Tang Dynasty had his talents unrecognized as he refused to co-operate with influential officials, he thus resigned and returned home. If Secretary Matthew CHEUNG thinks that the Government does not intend to do a good job in providing social welfare services, he can take the initiative to resign. This will certainly deal a blow at the SAR Government and make it reflect on how social welfare policies should be formulated in future.

Chairman, I so submit.

Mr CHEUNG Kwok-che moved the following motion:

"RESOLVED that head 141 be reduced by \$281,666 in respect of subhead 000."

MR LEE CHEUK-YAN (in Cantonese): Chairman, the labour sector has been in contact with Secretary Matthew CHEUNG for a long time and experience tells me that he has a few pet phrases. When we raise objections, he will ask us to be practical and realistic; when we criticize him, he will say that he has been most effective; when we ask for improvements, he will say that what we already have are not easy to come by; when we ask for a review, he will say that the Government has continuously conducted reviews; when we ask him to make a concession, he will say that he has already been bloodily criticized; when we criticize him for not doing enough, he will defend himself and say that he has not taken any leave. I agree that he is a very diligent Director of Bureau who has not taken much leave but I believe that there are substantial differences between the requirements we set for an accountability official and a civil servant.

We require an accountability official to practically implement policies within his purview and be truly effective. However, the Secretary disappointed us time and again in the past. As Mr CHEUNG Kwok-che has just said, in the area of social welfare, the Labour and Welfare Bureau under the Secretary's leadership has a significant flaw, that is, it does not have long-term planning in every aspect, this is also the earnest concern of the social welfare sector. I am very dissatisfied with the Labour and Welfare Bureau. Although it has implemented many pilot programmes, we do not know what will happen after these pilot programmes have been implemented. I have frequently asked the Labour and Welfare Bureau why they have to implement pilot programmes if they consider the relevant programmes desirable. Why should these programmes not be implemented thoroughly? Since the Secretary has always talked about continuous reviews, the programmes can first be implemented and reviews can be conducted afterwards.

Moreover, the Secretary has been very short-sighted in areas which require long-term planning. For example, concerning the supply of residential care places, he has said that 1 300 places can be provided this year but the supply of 1 300 places is lagging far behind the demand. The problem is, in the past three years, 2 000 people have been waiting for these places but 7 000 people on the waiting list have passed away. There is a three times difference between the two. According to the Secretary, 1 300 places will later be provided but I can tell him that 5 000 people on the waiting list would have passed away before 1 300 places can be provided. Is that meaningful? It is of utmost importance to have comprehensive planning.

Certainly, we know that we cannot provide all the necessary residential care places overnight, as some subvented residential places can only be provided when additional land is available. On the one hand, the Government can buy more places in order to increase the supply; on the other hand, the Government should simultaneously start making plans today; otherwise, three years later, it will apologetically tell us that no land is available, so residential places can only be increased gradually, just like squeezing toothpaste. Regarding this Budget, one of the requests made by the pan-democratic camp is to earmark an additional recurrent expenditure amounting \$1 billion for the provision of 10 000 places. Even though the Government has committed to do so, the Labour and Welfare Bureau has unfortunately failed to make long-term plans.

Another issue is that the social welfare sector published white papers or five-year plans in the past but the practice is no longer adopted currently. The Social Welfare Advisory Committee rather than the Government plays a leading role in formulating the relevant plans, which is an unreasonable practice. In fact, the Government should take the lead to consult industry players, and ask various sectors and non-government organizations to provide information, so as to formulate a five-year plan. Yet, the Government has not done so and we do not know what ideas it has.

The second major issue reflecting the Government's lack of planning is universal retirement protection. The Government talks about the three pillars whenever this issue is discussed. The World Bank Group has introduced five pillars but the Government just focuses on three pillars. It keeps playing the same old tune at debates in this Council and it has not explained whether the three pillars are appropriate. One of the three pillars is related to the Mandatory Provident Fund (MPF) schemes but everybody knows that it is not secure and reliable. The situation will become worse for low-income earners if there are investment blunders and a market crash. Even if these problems have not occurred, the MPF benefits received by low-income earners can only help them make ends meet for five more years and then, they will have nothing left. What is the use of this pillar?

The second pillar is about our social protection system. The elderly can get an Old Age Allowance of \$1,000 while the poor can apply for Comprehensive Social Security Assistance (CSSA). Nonetheless, even if a person and his family members are very poor, as elderly persons and family members are living together, it is impossible for the entire household to receive CSSA payments. Therefore, this pillar is also inappropriate.

The third pillar is personal savings. There is certainly no problem if a person has personal savings, but what about people who cannot save money, what should be done? The Government has conducted studies for numerous years but the Central Policy Unit is still unwilling to announce the result of its first study. I believe that the real reason behind is that the figures are too terrifying. The Government keeps procrastinating because the data are out-dated and studies may have to be conducted anew, and it is uncertain when the results of the studies will be available. It may not announce the results and it may say once again that the data are out-dated.

Regarding discussions about universal retirement protection, the Government has failed to share information, let alone solve the problems of the retired elderly. The Government often mentions an ageing population but it does not have long-term plans. We requested to set up a \$50 billion seed fund in this year's Budget for implementing universal retirement protection, so that each elderly person can receive \$3,000 a month in future. This is actually a very humble request involving a moderate amount. In fact, for an elderly person, he still has to live under a tight budget even if he receives \$3,000 a month after retirement, but at least, the monthly pension of \$3,000 demonstrates that our society respects these people who have worked hard and contributed to Hong Kong. As some Members have mentioned, in many foreign countries, it is found that the retirement system involving pension payment is inappropriate and it is thus proposed that the retirement age should be raised. Yet, regardless of how inappropriate the retirement systems in foreign countries are, there are established systems after all so that elderly nationals will not lose a sense of security after their retirement. Owing to the fact that old people in Hong Kong are seriously in lack of a sense of security, we have really let Hong Kong people down.

I believe we all know that the third area that Secretary Matthew CHEUNG has not properly performed his duties is related to the minimum wage. Insofar as the minimum wage is concerned, he naturally claimed that things were not easy to come by. It is very difficult for me to understand why it has taken him so long to work out those guidelines. Just think, the legislation was enacted in July last year after more than a year's discussions, and discussion held before that also extended for more than a year. If legislative efforts have been made from the very beginning, it should not be very difficult to work out the guidelines after the enactment of the legislation in July because we already knew what was going on. Why the relevant guidelines were only introduced in April after the legislation was enacted in July and the minimum wage level announced in November? The Government must first submit the draft and conduct consultations. Why does the Government not push forward the whole schedule? If the guidelines could be introduced in November after the legislation was enacted in July, industry players would have time to study the guideline. That is not the case as the draft was only introduced in January and it was only finalized in April.

Another major issue concerning the guidelines is related to the second guideline, that is, the guideline given to government contractors. Regarding the guidelines to government contractors, we wrote to the Government in December, requesting for deliberations; Secretary Prof K C CHAN should be well aware of our request. However, the Government told us that it was going to conduct internal studies. I do not mind if internal studies would be conducted by the Government but I am not sure how long these studies would take. When would it start implementing the relevant provisions? If the Government could conduct studies when the legislation was enacted, it could identify the problems even if the level of the minimum wage was not set at that time. Why did it not conduct studies as early as possible?

Even if it starts conducting studies in November, why has it waited until April to introduce the guidelines? What are the problems? The Government may feel being compelled to suffer in silence for it has encountered complex issues that could not be make known. I agree that the Government is best at complicating simple issues. Since the Secretary has to complicate simple issues, I am asking him to simplify the complicated issues and iron everything out. Why has he taken so much time?

As the Secretary has taken such a long time in formulating the guidelines, there will be two adverse effects. First, there has been a comprehensive revision of the terms of employment in the market. As people are unsure what ideas the Government has, they revised all contracts first. Even though the Government said that there should be rest day pay, regrettably, the contracts have been comprehensively revised. Even though the Government agrees to pay for the rest day, I do not think the market will follow suit. I am most worried that the bosses who originally offered rest day pay and paid meal hours may cancel the latter, and the bosses who originally offered neither will not offer rest day pay. After all, they will just meet the minimum standards, which would be most undesirable.

Leaving these matters aside, if the guidelines can be introduced earlier, employees can at least reflect their requests to employers, that is, they would like to follow the Government's proposal and be offered rest day pay. Nevertheless, the introduction of the principles right now has adverse effects on the market, and there are also adverse effects on outsourcing services. There are just two weeks left, if the contractors really withdraw as they have threatened, the Government

must take over the provision of services. Otherwise, it will really be trifled with. Furthermore, I am worried that workers who delightedly expect a wage increase of a few hundred dollars or more than \$1,000 may suddenly lose their jobs. If that really happens, the Government will let these workers down. As the Government has been so late in introducing the guidelines, it will not have time for a re-tender once the contractors have withdrawn; this will be the worst-case scenario. I really do not know how the Government can re-tender at the time and how Secretary Prof CHAN or Secretary CHEUNG can clear up the mess. Hence, the third major issue is the Government's handling of the minimum wage issue.

The fourth major issue that must be discussed is about transport subsidies. There has been much procrastination in respect of transport subsidies, and the Government has taken a year to conduct reviews and studies. After reviews and studies, the Government has introduced a system under which applications will be made on a household basis and the individual application system has been abolished. As a result, people who could originally receive the subsidies are not eligible. Yet, the concept of employment is about individuals, why can an individual not apply for subsidies when he is willing to take up a low-income job? Why should the entire household be regarded as a unit? If the Government thinks that some three-member households only have one person working and it wishes to take care of their needs, it can adopt a dual-track approach. Yet, we are deeply disappointed that the Government eventually refused to adopt a dual-track approach towards providing transport subsidies. Hence, some people who were originally eligible are not eligible while those who were originally not eligible have now benefitted. Since the Government conducts very stringent means tests, not many people can finally receive transport subsidies.

As regards the major issues mentioned above, I think that the Secretary has not performed satisfactorily as an accountability official in respect of labour and welfare matter. Hence, I support the amendment proposed by Mr CHEUNG Kwok-che today that the Secretary should have one-month salary reduction. The Secretary may as well take leave during the time he will have one-month salary reduction. I send him my best wishes though I trust that it will not make any difference for him at all.

Thank you, Chairman.

MR WONG SING-CHI (in Cantonese): Chairman, recently there has been a survey which reflects the situation of unemployment in different districts. The ranking of North District, where I have served for years, has risen from the third in the past to the first this time. Its unemployment situation ranks first in Hong Kong.

Some reporters have asked how I would analyse this situation. I said, first of all, the minimum wage had not been implemented yet, so a lot of people still had very low wages. Originally they could have pulled through, but unfortunately, since transport costs, food prices and fees for other ancillary facilities had surged drastically in the past six months or so, many people who earned only four to five thousand dollars a month and who had to travel across districts to work had chosen to quit their jobs. It was because after deducting the expenses on lunch and transport, even if they were entitled to the full transport subsidy, they would only have one to two thousand dollars left every month after their hard work. So they would rather apply for the Comprehensive Social Security Assistance (CSSA). How saddening this is.

We have requested the Government to consider opening up employment opportunities in different remote areas. We have observed that most of the poor people have been dispatched to peripheral places such as Tin Shui Wai, the outskirts of Yuen Long, Sheung Shui and even the so-called Tung Chung New Town, all of which are far away from places with more employment opportunities. For many of these people, academic qualifications or other problems have affected their career prospects or choice of jobs. Over these years we have urged Secretary Matthew CHEUNG to look after these people more and provide them with more employment opportunities, but so far only an integrated job centre has been set up in Tin Shui Wai. We hope that in this Budget, the Government would consider setting up these job centres in different districts. Yet this suggestion seems to have disappeared without a trace.

Before the implementation of the minimum wage, many people have no choice at all but to give up their jobs because the amount of their hard-earned money is even less than that of the CSSA received. Actually Secretary Matthew CHEUNG has to take this responsibility. We did not just reprimand him, we also sat down and discussed with him. As mentioned just now, during the discussion with Mr CHEUNG Kwok-che, Mr LEE Cheuk-yan and Secretary Matthew CHEUNG, we felt his great enthusiasm and there were abundant supporting data; regrettably, little was done. When Secretary Matthew

CHEUNG responded to our questions, very often we only speak for five or seven minutes, but Secretary CHEUNG would spend 45 or 52 minutes or even an hour describing the work he did in the past few years. When we asked about the progress behind these figures, he would stall by using other excuses like "it is under way" or "I have already given you this and that".

Chairman, if someone has done a job effectively, there will not be the circumstances where, after spending lots of money to carry out works to solve the problems, he still gets scolded and problems of hardship still emerge one after another. In seminars for parents, I often asked parents if they had ever scolded their children. They said they had. I asked them the reasons for scolding their children. They said they wished their children would turn for the better. I then asked them if these children's problem would stop after the scolding. They said no. Every time they would still scold them for the same problem. I said the truth was actually very simple. If they repeatedly thought that scolding would solve the same problem with their children, obviously scolding was unable to settle the problem. In fact, they should think of other ways and try to help their children to develop and solve the problem through another means.

Chairman, it is the same for the Secretary. Every time we asked him, he would say that the problem had not been solved yet. He would only present to us the figures of the waiting lists and the difficulties encountered. It seems that every time we put a question to the Secretary, he would just monotonously read out the previous replies to our question from the beginning to the end again. If what he said was useful, we would have shut up and stopped asking him again. We would not have raised any more questions, figures and specific examples to criticize the Secretary for incompetence. Regrettably, the Secretary has been full of confidence and highly satisfied with the work he has done over the past several years since he took office.

Chairman, the amendment proposed by Mr CHEUNG Kwok-che today has rightly reflected the view of people in society and that of Members that even though Secretary Matthew CHEUNG has used lengthy speeches to harp on figures about the Government's allocation of resources and tasks which he considered satisfactorily completed, these problems have remained unsolved. As the accountability system is in place at present, what should undertake this responsibility? Should it be undertaken by those who are faced with the problems? By the Legislative Council Members? By the general public?

This, of course, must be undertaken by the Secretary. He has to undertake the responsibility under the political accountability system.

Chairman, Mr CHEUNG Kwok-che and Mr LEE Cheuk-yan have just quoted many examples. I believe many other Members are going to talk about this too in a while. I just wish to tell Secretary Matthew CHEUNG or the other Directors of Bureaux, when they play this role or do this job, their duty is not to conceal the Government's poor performance. Rather, they are to come out to admit what problems the society has and then put forward the solutions. Such solutions should address the problems which they have admitted, but not cover up the actual problems. They should not feel satisfied for just doing some work and consider that they can be accountable to the public. Chairman, I find that many Directors of Bureaux, when they come forward to address the public, they only conceal the inadequacies of the whole Government or the problems faced by society.

Chairman, if Secretary Matthew CHEUNG does not think he has any problems, please ask him to come forward and tell us how he, a Secretary under the accountability system, would explain why there are still so many deep-rooted conflicts in society now. In particular, there are problems of wealth gap, working poverty, cross-generation poverty, no sense of security and no sense of support for the elderly, and lack of care for the disabled and the sick. Please ask him to come forward to explain these problems and tell us what long-term solutions he has to resolve these problems step by step, rather than quoting lots of figures to prove what he has done, for example, how much money was allocated, how many people were employed, how many centres were set up and how many activities were held. If such things were totally effective (I am not saying they were absolutely useless), the problems would not have lasted till now. Actually much of the work has failed to target at the crux of the problems.

Chairman, Secretary Matthew CHEUNG gives us the impression that he is very hardworking. As I said just now, every time he reads from several pieces of paper and spends almost an hour to talk about ideologies or the situations of their work. This would indeed make other Directors of Bureaux pale in comparison. However, every time he speaks, he fails to explain to society a very important point, that is, his objective in handling these problems or the target he wishes to achieve.

At present, the waiting time of the elderly for residential care is as long as 34 to 40 months. Can the Government tell us if it has any direction or objective to shorten the waiting time of the elderly in need? In the Legislative Council, this question has been put to the Secretary by the Panel on Welfare Services and many subcommittees, as well as through different channels (such as oral questions). However, up to now, he is still unable to reply to us. I am not asking him to pledge today and announce tomorrow that the waiting time of the elderly for residential places will be shortened to 12 months, but he needs to tell me the relevant objective, figures and direction, so that the problem faced by the disadvantaged and people in need can be solved. Seeing so many problems, why is he, the Secretary, still refuses to make such a small pledge and commitment today? Why would he still just keep on boasting how much work he has done? That is to say, he has merely informed us of the approach, but he has not told us the objectives to be achieved under such an approach, and how the work can be done better.

Chairman, today we can express our dissatisfaction, and I hope that in the days to come, Secretary Matthew CHEUNG can really bring a distinct hope for the grassroots, the disadvantaged, the elderly and the disabled, allowing them to see whether there will be a chance for the problems faced by them to be solved, and when and how they will be solved, instead of listening to the Secretary bragging about his achievement while people are still suffering.

As Mr LEE Cheuk-yan has said earlier, this one-month salary is not that much. To Secretary Matthew CHEUNG, \$200,000 odd may be an insignificant amount, but this can be taken as an opportunity for him. If one-month salary is really slashed, he will have one month's time to slow down and reflect afresh on the expectations which society and members of the public have laid on him. He will also have the opportunity to have a quiet introspection of his own mistakes and think about how to genuinely resolve the existing deep-rooted conflicts in society in the future.

I so submit. Thank you, Chairman.

MR FREDERICK FUNG (in Cantonese): Chairman, many Honourable colleagues have just pointed out a number of problems with the Secretary. Let me try to highlight the problems which I think the Secretary has in three areas.

First of all, good things have turned out to be bad things. There are two policies for which we have fought in the Legislative Council or in the community for a long time. It can be said that we succeeded in our fight for them, but eventually they ended up in a mess. It was indeed infuriating. Originally I wanted to give the Secretary a big hand and show him my full support, but in the end I had to come forward to lash the Government.

The first point is about the transport subsidy. The Government has obviously changed the travelling allowance proposed by the Subcommittee on Poverty Alleviation of this Council, which will genuinely subsidize the transport costs of members of the public, to a subsidy for people with low income. If the Government wants to change it, just go ahead and do so. Just say that it is not that thing. It is something different. Thus the approach is different from before.

Yet the Government did not act this way. Instead, it said that the present travel subsidy was evolved from the previous travelling allowance. The previous method of calculation based on individuals has changed to the present method based on the whole family. However, not everyone in the family will go to work, will they? Why should family be used as the unit of calculation? Eventually there were endless disputes.

Actually we had provided the Government with a way to back down with good grace. That is, we requested that the two methods be adopted side by side, but the Government would not agree no matter what. Hence, a good policy for which we would have given a big hand gave rise to all sorts of disagreements. Consequently, people who were originally benefited could no longer enjoy the benefit, while some who were originally not entitled to the benefit became benefited. The targets of the two approaches were no longer the same.

Another issue is about the minimum wage. We have fought for the minimum wage legislation for 20 to 30 years. Now that it is available, in theory we should also give it a big hand. However, how come the people who are supposed to benefit from the minimum wage turn out to be the one who raise the most severe criticism against the Government? It is because with the introduction of the minimum wage legislation, not only are they unable to see a prompt enforcement of the minimum wage which can protect their wages. On the contrary, there are lots of technical loopholes and deficiencies in the enforcement of minimum wage which have made employees unable to get their

entitled benefits mentioned in our discussion on minimum wage legislation. On the other hand, the relevant legislation allows some employers to go in devious ways, exploit the loopholes and dodge here and there to evade the law without paying the minimum wage, thereby causing labour disputes from time to time. This is a clear example of good things turning out to be bad things in the recent six months.

Secondly, my feeling is that money and welfare have been thrown into the sea without achieving any effect at all. I will not say that the Government does not allocate any resources to provide welfare. In fact, the Government has allocated a great deal of resources on the provision of welfare. The amount involved the Comprehensive Social Security Assistance (CSSA) and the Old Age Allowance alone is as much as some \$30 billion. Is it that the Government has not done anything? This is by no means a small amount. With so much money spent on the CSSA, how come the poverty problem never goes away and has become increasingly serious? What does that mean?

According to the annual publication of the Hong Kong Council of Social Service in the recent two or three years, you may note that, 10 years ago the number of working poor or people in poverty in Hong Kong, that means those whose monthly income is lower than the median wage, was about 800 000. In 2009 it was increased to 1.23 million. Last year, which is 2010, it was increased to 1.36 million.

As there are so many ways to help the poor and so much money has been allocated, how come the number of people in poverty keeps increasing, let alone remains unchanged? Obviously, the Government has done something and has spent money, but the money is not effectively spent. Members of the public have not benefited and their sufferings from poverty have not been alleviated.

Thirdly, the work has been reversed. Just now the debate was about the accountability system for principal officials. Being the Secretary for Labour and Welfare, apparently he is accountable for labour and welfare affairs. He should be in charge of policy directions and values as well as how to promote the policies.

Why do I say the work has been reversed? Over the years both the welfare sector and the community groups have hoped that the Government will

conduct overall planning on welfare. The Government cannot simply tell us the principle of "big market, small government" and let the big market handle the matter itself. The big market will not provide welfare to the staff. Enterprises may provide welfare to their staff, but we must not rely on the market or the business sector to provide the overall welfare in Hong Kong. The provision must be made by the Government.

If the Government is to provide welfare — of course, by "welfare", I do not only refer to pecuniary benefits. Housing benefits and provision of education are also counted as welfare. If you ask me, I think there are several social policies which also involve welfare, including housing, healthcare, education and labour. The Government should stimulate discussion by the people concerned in society and make planning on the vision for welfare, which can be enforced at present in terms of capability, financial resources and the current conditions. We can take the first step for such a vision now. What are the objectives that we expect to achieve? We need to seek the views of people in society on matters ranging from the first step to the final stage. Do they agree that the Government should spend such resources? Do they agree that the Government should spend a certain proportion of the tax revenue? Having sought the views in society, we can then take forward the planning and vision for welfare based on the consensus reached by the majority.

Why do I find it important to have such a vision and planning for welfare? Chairman, before 1997, I had discussed with the Hong Kong and Macao Affairs Office of Beijing. Now sometimes I will also discuss with the officials of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, and sometimes with Hong Kong officials. When China took back Hong Kong, not only did it want to get back this territory but also to win over the people's heart. At present, governance in Hong Kong really needs people's hearty support. The Government should not think that having spent a lot of money, it will get the people's support. The Labour and Welfare Bureau is a most important Government body which should make Hong Kong people, especially the disadvantaged, believe that the Government cares about us, that it is a government of the people, and that it promotes certain policies systematically with an objective. Even though we are the disadvantaged with a lack of money, with physical disabilities or with low education attainment, our Government will assist us to stand up. We will be able to make money to support ourselves and our families without the need to rely on the Government to hand out money.

The Government needs to show Hong Kong people that it will provide such a means, platform and opportunity, enabling them to understand their own abilities, continue to live in dignity and choose their own jobs freely and happily to make money to support themselves and their families.

How come such planning cannot be taken forward? As such, how will people hold out any vision or hope about Hong Kong's future? The Government needs to convince Hong Kong people to work together to build Hong Kong into a better society with a better platform. It will be a better place where 7 million or more Hong Kong people can continue to live happily, where we will not only talk about our rights and interests but also attend to our obligations. If you can convince Hong Kong people, they will do so. For instance, if you recognize someone as your family member, you will be willing to do a lot of things for him. You will even be willing to sacrifice for him without thinking such an act is a sacrifice. On the contrary, you will regard it as a kind of contribution. How can the Government win such recognition from Hong Kong people and give them such a sense of belonging? The Labour and Welfare Bureau is an important department which must undertake this task.

Why do I say they have reversed the work? After the Chief Executive was elected, he should have his ideology and platform in governing Hong Kong. The Secretary for Labour and Welfare has to carry out such a platform, turning it into policies and strategies. Yet the Government did not make any overall planning on labour and welfare. Instead, it passed the responsibility to the Social Welfare Advisory Committee. Almost a year has passed since the consultation was conducted last year; the advisory committee still has not published the results. As we know, this advisory committee is advisory in nature which does not have any concrete power or money. After the completion of all discussion and consultation, it will be forwarded to the Labour and Welfare Bureau for screening. I think the Government has reversed the working procedure. The advisory committee should give advice to the Chief Executive and the Secretary. Now it seems that the advisory committee was asked to make the decision, but since it has no power or money, how can it make any decision? This is a problem of reversing the work and the level of authority.

From the above three situations, I cannot see how the Labour and Welfare Bureau or the Secretary for Labour and Welfare can properly address the problems mentioned by Members just now, such as transport subsidy, minimum

wage, wealth gap, working poverty, cross-generation poverty, employment, and increase in wages for workers with enhanced skills upon training. Chairman, I can list out many problems, and the Secretary can similarly list out many examples, because every time he speaks, his speech will be very long, telling us what projects have been implemented and how much money has been spent. Yet our ultimate question is, how come all these projects take no effect? How come we have poorer results with more money being spent; and the problems still remain unsolved?

Let me quote two to three examples. The Secretary can hardly provide any explanations as they are inexplicable. People with disabilities have to wait for 10 years for residential care, whereas the elderly have to wait for more than 42 months for places in care-and-attention homes or nursing homes, and one fourth of the elderly passed away while they were waiting. Regarding the waiting time for public rental housing (PRH), a target has been set. The average waiting time for the provision of PRH is three years. In the relevant meetings, I have asked a number of times whether the Secretary could make us a promise. Given that the present waiting time of the elderly for places in care-and-attention homes or nursing homes is 42 months, could you go back to square one and make a new plan on the waiting time? I am not so greedy as to ask you to grant an application on the same day you receive it, but can it be similar to the applications for PRH, allowing the elderly to be admitted to care-and-attention homes or nursing homes within three years on the average? Shorten the time from 42 months to three years. You can further tell me how much time it will take to achieve this target. However, the Secretary cannot answer this question because the Government actually does not have any plan or target in dealing with these problems.

Now the Government tells us how many residential places it has provided, which merely seeks to cope with the continuous increase in demand every year. Chairman, my conclusion is, this year we have seen a lot of work relating to the Labour and Welfare Bureau turning from something good into something bad. They have spent plenty of resources without effect while the working procedure has been reversed. The Secretary has not performed a Secretary's role properly. He has not provided Hong Kong people with a vision which enables them to feel that Hong Kong is their home. As such, I do not find it too much to slash one month's salary from him. Thank you.

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

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, actually I have sought to cut the salaries of Secretaries of Departments and Directors of Bureaux by 30% by way of legislation before, but owing to the stipulations in the Basic Law, I was not allowed to do so. Today, the saying that "every good or bad deed will have its just reward someday" has come true. Finally on this occasion, some Honourable colleagues agree to cut the salaries of the Secretaries of Departments and Directors of Bureaux.

As we know, during the enactment of the minimum wage legislation under the charge of Secretary Matthew CHEUNG, I asked about the working hours. At that time he sent Alan WONG Kwok-lun — I do not remember if he is Deputy Commissioner — here. I asked if he knew how to calculate fractions. If we were not certain about the numerator and the denominator, how could we do the calculation? I mentioned that as the statutory minimum wage was calculated by hourly wage, with no cap on the working hours, there would certainly be troubles. This is not merely a mathematical problem. It is also a problem of making do to cope with the price.

Suppose a worker has to work nine hours in order to earn a living. In that case, just let him work nine hours, because if the employer does not pay for the meal break, the working time will be nine hours. That is usually the case for manual labourers. Hence, it should be \$28 times 9. If he has to work eight hours, it will be 8 times \$33. This is very simple reasoning. Therefore in this regard, he is just "playing foul". Of course, this is because the Employment Ordinance, which was enacted by the former Government, states that wages shall be calculated on a monthly basis unless stated otherwise in the contract. As a result, there is such a gap. The reply I received from the Secretary was, "It will not do if it has not been endorsed by the Labour Advisory Board (LAB)." I asked, "What the heck is the LAB? Does it hold any position in the Basic Law, which is now often mentioned in this Chamber?" He replied, "No, but it has a history of some 60 years. For over 60 years, such a long-standing practice has been effectively operated. So it cannot be changed."

We want to reform, but we do not have the tools for reform. What is that called John TSANG is not present today. Maybe he finds himself being

scolded too harshly yesterday. He said, "Winston CHURCHILL once said, 'Give me the tools, and I will dig the hole for you.'" Actually his words are, "Give me the tools. I will get the job done." Now he does not have the tools in hands. He needs to work for workers, but he does not have the tools. He does not have the tools because there is not any. I asked him, "Why did you not go to get the tools?" In fact, he is putting on a rival show against John TSANG. "Do not give me the tools, and I do not want my job to be done." He is this kind of person. "Do not give me the tools. Why does 'Long Hair' ask me to fetch the tools? If we cannot calculate the working hours, let it be. The LAB does not have the tools, but the practice is long-standing." He is like a wage earner responsible for fixing screws. The boss instructs him to work. (We are just like his boss because we, being Legislative Council Members, will supervise him. We represent members of the public. The wage earners will supervise him too.) The boss tells him, "Fix the screws for me." Yet he replies that there is no screwdriver. I ask him to fetch a screwdriver, but he says, "No way. The long established practice runs smoothly without a screwdriver."

My dear Honourable colleagues who serve in the Legislative Council, if I ask you to get me 10 glasses of water without using a tray, it is no different from telling you to do acrobatics, is it? You will certainly fetch a tray, right? You will say, "Mr LEUNG, wait a minute. Let me get a tray." If you cannot find a tray, you will tell me, and I will ask the Chairman to buy a tray. A person can hardly hold 10 glasses of water? Do we want him to perform an acrobatic show? Matthew CHEUNG is exactly this kind of wage earner. He has disappointed our expectations and those of the working class on him. Yet he still shamelessly told us that he has already done his work. He has worked without the tools. If he has worked without the tools, that just means he has not done his job or he has not done it well, has he? Even if we downgrade Donald TSANG's maxim — "I will get the job done" — he has failed to get the job done.

Honourable Members, what should we do with such a Secretary? Today he is not present. He has only asked K C CHAN to come. Has his nickname caused him to be in such a state, hearing but not listening, looking silly? With all those officials here, even though we are talking about cutting his salary, he would not come to listen. Then he would say we have unilaterally imposed a death sentence on him. I wonder if he is leaving himself the leeway to file for judicial review, alleging that we have not listened to his defence. Honourable Members, the proposal to cut his salary will be negated for sure. However,

even if we cannot cut his salary, we still have to denounce him here so that those who are listening to the radio in taxis and those who are watching television or listening to the radio in slum areas today will know what the Secretary is doing. This is the first point.

Secondly, during my participation in the strike of the bar-benders, there were "nine suns" outside the entrance of the Central Government Offices. What an imposing entrance with big hounds. The whole group of bar-benders was sitting outside, waiting. We got the news that Matthew CHEUNG would come down. Yet later, we learnt that he would not come down, but he would send his Permanent Secretary to come down. I did not know who passed the news. I called him 12 times. I deliberately made 12 calls — like the "12 gold plaques" which ordered the return of the Chinese general Yue Fei — to summon him so that we could talk face to face. It was similar to the circumstances about the phone number which Matthew CHEUNG has recently given me. In this Council we asked him, "Secretary, have the guidelines on minimum wage been formulated? If they are not well written, it will stir up big trouble. Then what should we do?" He replied, "No need to do anything. You may call such and such a number." I immediately — you know, now everyone has a mobile phone — I tried to call, but the number could never get through. You see, how shameless he is! As soon as he arrived, we asked him, and he told us to ring up. Chairman, if you were me, would you get angry? Suppose I arrange to dine with you. I ask you to meet me at a certain place and ring me up after you have arrived. After you arrive, you sit there and try to call me, but after you have tried 12 times, you still cannot get through. He is such an official. How can we not cut his salary?

Thirdly, like many scholars, he has an obsession with words. Many scholars' written works are so thick as though they are sold by weight. Only then will they have an edge, and only then will it be regarded as knowledge. Those are just words. As I have said many times, that is called an obsession with words. Lengthy and clumsy, the writings are as long as those traditional old women's cloth for foot-binding.

It is the same for Secretary Matthew CHEUNG. He is not obsessive about written words, since he does not write that much. He is obsessive with spoken words. If you ask him one thing, he will give you eight irrelevant answers. If you tell him, "Secretary, there is some problem with my drain."

He will say, "Okay, no problem. Anything which is round in shape is called a drain." Then he will start quoting all the classics.

Buddy, what he said is not entertaining, is it? Besides Michael SUEN, there is him. Yesterday, Michael SUEN also dozed off. He could not hold out any longer, right, and he went snoring. Matthew CHEUNG did not sleep, yet he has inherited Matthew CHEUNG's skill. He is Michael SUEN's follower, fooling us every day.

Secretary Prof K C CHAN may be better than him. Secretary Prof K C CHAN will just remain silent and smile. Yet he is wasting our time. He is using up our time and exploiting loopholes in our questioning session in the Legislative Council. When the officials talk, at most the Chairman can only request them to try to be as concise as possible. He cannot accuse them of random shooting and ask if they can return to the subject under discussion. The Chairman can ask me to return to the subject under discussion, but they are actually beating about the bush.

That is the case, though sometimes Secretary Matthew CHEUNG will do some small jobs. I once requested him to deal with a case, and he really sat down and discussed this case with me for two hours. However, minor favours are useless, buddy. The situation is like, when you need the Government to save your life, it gives you a pain-killer. When you ask the Government to give you money to buy medicine, it gives you money to buy a coffin. Right? You tell the Government that you are sick and you want some money to buy medicine. It says, "Okay. After you reach the age of 65, you will be given a free coffin."

Chairman, you were not present yesterday. That is the reason why I said this Government is a "type 9"² government. It is because the late Chairman MAO said, "Liberalism manifests itself in various ways" Then there is a long passage of his grand opinion. Like Secretary Matthew CHEUNG, he kept on talking eloquently about the various types of such manifestations and then came to the ninth type. What did he say? That is, working half-heartedly.

² As the pronunciation of "nine" (九) in Cantonese is the same as that of "dog" (狗), it is likely that the speaker was making use of this homophone to ridicule the Government.

I sort of belong to one of the types. Sometimes I work a bit half-heartedly too. However, I am not someone who works half-heartedly without a definite plan or direction; who works perfunctorily and muddles along; and who goes on tolling the bell so long as he remains a monk. This is the ninth type. That means "type 9". So our Government is a "type 9" government. Being a "type 9" government, it certainly has all the characteristics of "type 9", which will pass from one generation to another.

That is the case for liberalism. People take your money without fixing your problem. So, of course Secretary Matthew CHEUNG is very busy today. As indicated by Secretary Matthew CHEUNG, the matter of capping the working hours can definitely be handled within his term. Even if legislative work cannot be done yet, a framework can be put forward.

Chairman, let me make him a generous offer. Even if he will not get one-month salary deducted today, in case he still has not properly handled the issue of maximum working hours when Ah TSANG leaves office, should he give us back the money? Let us make a bet. By the way, who dares to offend the Secretary in this Chamber? You will merely tell him off for a while. Seeing the Secretary behind closed doors, you will say humbly that there are lots of problems and wonder if he could deal with four of the cases for you. The Secretary will then become the boss and say, "Only four cases? No problem. I will help you deal with them." You are just tugging at each other. Yet I will not beg him, because we need to fight for what we want.

If Secretary Matthew CHEUNG fails in the end, what should we do? That means if he cannot properly handle the issue on maximum working hours, what should we do? Or if the formulated guidelines turn out to be utterly confusing, what should we do? He is in office. I think if, owing to ambiguities of the guidelines, the matter is taken to the Court for judicial review and the case is lost, all costs should be paid by Matthew CHEUNG. He said he could handle it well, did he not? An undertaking has been made. It is also long-standing.

I know that bureaucrats shield one another in this Chamber. There is no way to cut his salary, not even by a penny. It is absolutely impossible because there will not be enough votes to support it. There are 30 Members who were not returned by direct elections. Those 30 Members who were not directly elected may consider that this Secretary has done a pretty good job, but I think he has done a very lousy job. Frankly speaking, I am not framing him. Most of

those who said that the Secretary has done a good job are Members of functional constituencies. Some of them are not. Never mind. You are welcome to compete with me in elections anytime. You must come to the New Territories East to challenge me.

It is very simple. Today we cannot cut his salary, but will he not be ashamed to receive such a salary? I want the press — you often say you want to take pictures, today there is no picture to take, but you have got to ask Secretary Matthew CHEUNG, "'Long Hair' said so. So did 'Short Hair' and 'Golden Hair'. They said you are incompetent. Would you make a pledge to donate one month's salary if you are unable to handle the work of setting the guidelines properly?" Let us make a deal. There is just about a year left. If he cannot deal with the cap on working hours properly, will he donate another month's salary? This is very simple.

What will I lose? I may lose him my seat. If Matthew CHEUNG has done a good job, certainly no one will vote for me. Since I have told him off in such a way today, of course Hong Kong people will protect the Secretary out of indignation. Hence, it is difficult to tell. There will always be secretaries like "Ah Keung" and governments of "type 9". Thus my conclusion is very simple. Chairman, if you meet the Secretary in the future, please pass him this message for me. Ask him to take out his salary first. I want to bet with him. That is it. Because I know he definitely will not have any pay cut. Thank you, Chairman.

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

MR IP KWOK-HIM (in Cantonese): Chairman, regarding the amendment proposed by Mr CHEUNG Kwok-che to slash a month's salary of the Secretary, actually Mr CHEUNG Kwok-che is not the only one who proposed such an amendment. There are also Mr Alan LEONG, Mr CHEUNG Man-kwong and Ms Cyd HO.

These four officials are being criticized for unsatisfactory performance, and thus there is the need to take a month's salary from them as punishment. If we follow such a logic, there are plenty of people who should have their salaries deducted. In fact, those who most deserve a deduction of salaries include the pan-democratic Members.

Previously, a number of opinion surveys have indicated that the popularity rating of many pan-democratic Members has nosedived, especially what they have recently done has not paid any regard to the overall public interest, for example, abstaining in the Vote on Account Resolution, and thus the funds on account were not approved. Today, we saw them use the abstention votes again to object to the Government's handout of \$6,000 to 6 million citizens. Considering that the pan-democratic Members have placed their own political interests above social interest, members of the public are deeply dissatisfied with their behaviour. Hence, the persons who most deserve deduction of salaries are the pan-democratic Members, since they have neglected the interests of members of the public, which is a serious dereliction of duty.

In recent years, we have seen individual Members throwing bananas, sweeping tables and speaking the vulgar language in the Legislative Council. Such behaviour has aroused strong reaction in society. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has brought up whether there is the need to amend the Rules of Procedure to enhance the regulation of Members' behaviour and requested the Secretariat to conduct a study in this regard. As we can see from the practice of overseas parliaments or district councils, Members who disrupt the order in Council or commit serious dereliction of duty will be punished by having a pay cut. However, the pan-democratic Members strongly object to this proposal. I do not understand. How come on the one hand the pan-democratic Members propose or support slashing the salaries of those officials whose performance is unsatisfactory, but on the other hand they consider that we should not punish those Members who have stirred up trouble by slashing their salaries? After all, what are their justifications?

As Hong Kong is a pluralistic society, of course there will be different views and requests. Some Members do not agree with certain policies or the Government's viewpoint and raise strong objection. This is a rather normal phenomenon. Members should discuss the policies with the Government with an objective and rational attitude instead of falling out with the Government at every turn. The act of slashing salaries directed at individual officials does not carry any significant meaning at all. Hence, the DAB objects to the proposal of Mr CHEUNG Kwok-che and other Members to slash the salaries of accountable Policy Secretaries or officials. Thank you, Chairman.

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

MR KAM NAI-WAI (in Cantonese): Chairman, the speech delivered by Mr IP Kwok-him just now Earlier, he and I attended a meeting with the Central and Western District Council together. After that, we came back here to the Legislative Council. Just now Mr IP said that recently, there has been a survey which indicated that the popularity rating of the pan-democratic Members was low. I do not know if he has read it wrong. The survey has pointed out that the whole Legislative Council, not the pan-democratic Members, has a low popularity rating.

Why does the popularity rating of the whole Legislative Council stand low? One of the reasons may be the recent confusion caused by the minimum wage. It may also be the performance of Secretary Matthew CHEUNG, which he has just mentioned. I do not know if he remembers that earlier in the District Council, among the members who spoke at the meeting, many considered that the Secretary had committed dereliction of duty, and they criticized the performance of the Bureau. For instance, as the legislation will come into operation on 1 May, the District Council had to discuss how the minimum wage should actually be enforced. Hence it requested the Labour Department to send an official to brief its members so that they would understand the latest situation and how the new legislation would be enforced. To their surprise, the Labour Department replied, "No official is available, but there is a clerk. I could send a clerk to the District Council to give the briefing."

Mr IP, did you not say earlier that you had made it clear to the Bureau that it was not acceptable? Knowing very well that the new legislation will come into operation on 1 May, the authorities should increase the manpower if they do not have sufficient manpower to brief the public. As we know, the Legislative Council already completed the legislative work for the minimum wage before the summer recess last year. It has been more than six months since the summer recess last year, but still there is a lack of manpower? The relevant guidelines were also issued only these several weeks. Do you find such performance of the Secretary satisfactory? Deduction of his one-month salary is already very modest, as it is such an important policy, and the timetable and implementation of this policy are under his charge.

Many Honourable colleagues, including those of the Democratic Alliance for the Betterment and Progress of Hong Kong, have said that there will certainly be some shockwaves. There will be shockwaves because there are things we do not understand and we all have to deal with this problem. Why does the Bureau have such belated awareness in handling this issue? How come up to the present moment, they cannot even send an official of the Labour Department to the District Council to give a briefing — as we know, when you attended a District Council meeting, you could probably leave after talking for just an hour. Discussion on a subject will not last long — they are even unable to do that. They cannot even do such a basic job. Is that not dereliction of duty?

Hence, I think deduction of his one-month salary is only a small punishment which serves as a big warning in the hope that he will face and correct his fault and get his job done as soon as possible, just like his boss. I hope Mr IP Just now he should have refreshed his memory already. He has attended the District Council earlier. All the District Council members were lashing the Labour and Welfare Bureau. I hope he would understand that the public opinion goes the same way. Yet he still tried to cover the Secretary's shortcomings in every way. That is unnecessary. He has worked too hard to defend the establishment. Thank you, Chairman.

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

MR WONG SING-CHI (in Cantonese): Chairman, I am speaking the second time. I would like to briefly respond to Mr IP Kwok-him's remarks.

He criticized that the pan-democratic Members should have their salaries deducted. I really do not understand how Mr IP Kwok-him is qualified to criticize directly elected Members. By how many votes was Mr IP Kwok-him returned? He was returned by several hundred votes, whereas the number of votes we secured was at least several ten thousand. We serve nearly 1 million voters.

To be frank, Mr IP Kwok-him, please take a look. The amount we request to slash is \$281,666, which is equivalent to the Secretary's salary. If you talk about slashing the Legislative Council Members' salaries, how much is a

Member's salary? Our salaries are even lower than those of the Political Assistants.

However, under the Policy Secretary, there is an Under Secretary — though there is none under Secretary Matthew CHEUNG — as well as a Political Assistant and a group of Secretaries who work for him. Yet nothing has been achieved. Since this Policy Secretary has accomplished nothing, we find it necessary to slash his salary.

Having heard Mr IP Kwok-him's speech, I find that he considers it is right for the Secretary not to put forward a target. It is right for the Secretary to work to no avail, and it is right for the Secretary to do nothing after being scolded. Hence, do not slash his salary. Is that what he means?

Now what we are saying is, this Secretary has problems in many aspects. As such, why does he still deserve such a salary? What has gone wrong? Being Legislative Council Members, especially directly elected Members, every day we work in the districts, getting exhausted physically and mentally, but we receive only a meager pay. However, we do not mind. We do the work all the same.

Yet this Secretary can receive a salary of some \$200,000 without achieving anything, leaving members of the public in dire straits. Nevertheless, a Member of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) still said that he should keep on working this way. He also indicated that if the pan-democratic Members thought the Secretary's salary should be slashed in view of his poor performance, the performance of the pan-democratic Members was even worse. I hope members of the public will see clearly what a lame argument it is.

It turns out that the DAB can totally accept that the Secretary can receive a monthly salary of \$280,000 without doing any work, without the need to give an account of his work, or without solving any problem. They find such circumstances reasonable.

Chairman, Members are returned by elections, whereas the Secretary is appointed by his boss and monitored by members of the public. After members of the public have made criticisms Of course, some Members were returned

by elections. In the functional constituency to which Mr IP Kwok-him belongs, one to two hundred people have voted for him. As he supports the Secretary to work in such a way, I think it obviously reflects that actually most Members of the functional constituencies are biased for the Government.

Chairman, I do not blame Mr IP Kwok-him for proposing to slash the salaries of pan-democratic Members because he was elected to speak for the Government. No matter how badly the Government has performed, he will not find any problem.

However, the pan-democratic Members (especially those who are directly elected) consider that Policy Secretaries under the accountability system must be accountable to members of the public, since every Member from the democratic camp and every directly elected Member consider that we must also be accountable to members of the public. We cannot put up with any Policy Secretary who will just muddle through without any achievement.

Thank you, Chairman.

MR IP KWOK-HIM (in Cantonese): Chairman, the speech I have just made is actually very clear, but I think Mr WONG Sing-chi has distorted it. Time and again I heard Mr WONG Yuk-man criticize the Democratic Party as shameless. Having heard it for some time, I find what he said is quite true. When did I say they were right in not fully delivering the homework? When did I put it in such a way? Mr WONG Sing-chi, these speeches are recorded on tape. Please do not try to put words in my mouth.

Besides, regarding the matter of qualifications, I hope he will not pick on whether I am qualified or not. Being a representative of the District Council functional constituency, I wish to make it clear to him that I was elected by more than 400 people who are representatives elected by voters in all the districts. I also hope he knows that I did not get the votes from the pan-democratic camp, especially from Mr WONG Sing-chi of the Democratic Party. I am well aware of this point. Nevertheless, election is election. Please tell him not to vilify the District Council members.

If he wants to make criticisms and express his views, he can well do so. We can have a rational discussion. Please do not place the District Council members in such a position, treating representatives of the District Council in such a way stressing that he is an elected Member. Excuse me. I am an elected Member too. Maybe he regards himself as someone "bigger". However, public opinion is public opinion. I hope he will not play with the public opinion here.

Thank you, Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, on behalf of the Administration, I will respond to the amendment to the Appropriation Bill 2011 moved by Mr CHEUNG Kwok-che.

Mr CHEUNG moved that head 141 be reduced by \$281,666 and stated in his speech that the amendment seeks to deduct one month's salary of the Secretary for Labour and Welfare.

I understand that Members will have different views on different policy areas, and at present, different channels are available for Members to air their opinions. Before compiling the 2011-2012 Government Budget, the Financial Secretary had widely consulted and heeded the views of Members and various sectors of society through different channels. This year, Members raised more than 3 900 written questions on the Government's Estimates of Expenditure, and the Finance Committee held special meetings on five consecutive days to examine the Budget. In the Second Reading debate on the Appropriation Bill 2011 held on two consecutive days last week, Members expressed their views on different policy issues.

Of course, the Budget may be unable to satisfy every request put by all the Members. However, the Budget has by all means balanced the various needs of different sectors of society. The Financial Secretary has reiterated a number of

times the increase in our recurrent expenditure, particularly in the allocation of resources for livelihood issues such as education, social welfare and medical and health services. However, it seems some of the Members have not received the relevant message clearly. They still criticize that the Budget lacks long-term commitment, and they put the focus on one or two more controversial measures, as well as problems of some long-term policies on which it is impossible to reach a consensus within a short time, thereby having completely overlooked the other measures in the Budget. Now may I reiterate, the recurrent expenditure in the 2011-2012 Budget reaches \$242.1 billion, about \$18 billion higher than that in last year's revised Budget, representing an increase of 8%. Compared with the year of 2007-2008, the increase is over 20%. In 2011-2012, the total expenditure on the three areas, namely, education, social welfare and medical and health, accounts for 56.4% of the Government's recurrent expenditure, which is \$10 billion more than last year's expenditure. This demonstrates our long-term commitment to livelihood issues.

Members propose amendments at the stage of scrutiny of the Appropriation Bill to try to deduct the salaries of the officials concerned, but this is neither a proper channel nor a reasonable approach. Hence, the Administration opposes such an amendment. For the same reason, the Administration will oppose the three amendments of the same nature proposed by Mr Alan LEONG, Mr CHEUNG Man-kwong and Mr LEE Wing-tat later.

Chairman, the Government will maintain close communication with the Legislative Council, the public and various sectors of society when it formulates different policies. We hope that by means of consultations and negotiations, we can seek common grounds and accommodate differences so that better policies supported by the public can be introduced. Though it is impossible for us to reach a consensus with every Member on each and every policy or measure, we will continue to adopt an open attitude and maintain candid communication with all Members.

Thank you, Chairman.

MR CHEUNG KWOK-CHE (in Cantonese): Seeing that only Prof K C CHAN, Secretary for Financial Services and the Treasury, has come to reply today, we know very well how the Government treats these amendments. Actually my

amendment simply aims to tell the Government that the performance of the Secretary for Labour and Welfare is unsatisfactory. It has nothing to do with the amount of money. Hence, given that the reply is being made by the Secretary in charge of financial affairs, it can be seen that the Government actually does not look at the whole matter from the perspective of policy or labour and welfare.

Besides, I would like to respond to what Mr IP Kwok-him has just mentioned. If we slash the Government officials' salaries, could we also slash Members' salaries if Members do not perform satisfactorily? It sounds quite logical, but we all know that if a Member does not perform satisfactorily, he will be unable to carry on with his job four years later because the voters will not vote for him again. However, if an official does not do his job well, he can still stay in his job so long as the next Chief Executive appoints him again. We express our view on the performance of the various Secretaries by way of proposing to slash one-month salary from their pay. Thus I do not think we should argue here about how to cut their salaries.

Regarding what several Members have just mentioned, the most important point is that we have noticed the whole Government's stopgap mentality, a mentality of "treating the head when the head aches and treating the foot when the foot hurts". We often say that under the British rule, Hong Kong people or our officials could have a complete lack of vision because should Britain have any change in policy, Hong Kong would also be affected. However, after the handover of sovereignty, Hong Kong people could be masters of their own house. The Special Administrative Region Government of each term could ponder how Hong Kong should develop in five or 10 years' time. Earlier I have mentioned that TUNG Chee-hwa's government was far-sighted, but teething problems with the Government bureaucracy caused his early retirement. Our Chief Executive Mr Donald TSANG was trained under the bureaucratic system. We have laid high hopes on him. If his Government cherishes far-sighted ideas, given his good work in fostering co-operation among the bureaucrats, actually Hong Kong can attain better development. Why does he still adopt the British stopgap mentality to handle and address the existing social problems?

Actually Hong Kong has many systems in place which can project Hong Kong's situation, for example, its population growth, ageing, the proportion of young and elderly people, and so on, in five, 10 or even 20 years' time. If we study these issues early, we can envisage the picture of Hong Kong society in the

next 10 to 20 years, can we not? Hence, shall we set out to develop some infrastructure today? Very often when we talk about infrastructure, we will associate it with the construction of bridges and railways. However, regarding the infrastructure for improving our livelihood, it was not until the problem had appeared that the Government would try to think out a solution. Take the elderly as an example. In 2030, that means about 20 years later, our elderly population will reach 2 million. Have we made any preparations for the elderly population of 2 million people today? Are we going to stick to the existing policy? Does the Government have any ideas which it can convey us to let us know that it has already started working? We are not requesting that the Government announce a policy today and implement it tomorrow. We just wish the Government to tell us that it is considering and working out solutions with members of the public, rather than trying to take a stopgap measure only when something has happened. I have cited some examples earlier. For instance, the homicide case which took place in Shek Lei Estate aroused the Government's concern about services for the mentally ill. So the Government allocated a sum of money to do more work, but it was unable to find a site. After it was able to find a site, it was unable to find sufficient manpower. This actually requires long-term planning. Recently, the situation is the same for healthcare. We have noticed an increasing demand for obstetric and gynaecological services, but it turns out that manpower is yet to be trained and hardware support is required. Is this miscalculation? Or have we totally omitted to anticipate these things?

On this Budget, I believe various political parties have made some proposals. The Government often says that since it is impossible for the recurrent funding to increase drastically, the authorities can only adopt a progressive approach to settle the problems and address the demand step by step. Yet I know that various political parties have asked the Government if \$50 billion could be allocated to set up a seed fund for universal retirement protection and whether \$10 billion could be spent to establish a development fund for residential care services for persons with disabilities and the elderly. We have made the above proposals. Could the Government tell us the reason for being unable to implement these proposals? Such proposals of \$10 billion, \$50 billion, \$20 billion and \$30 billion can rightly cater for the condition frequently mentioned by the Government, that the amount of recurrent funding cannot be too big. I believe the community and the Council actually have many plans and strategies which may be offered to the Government. The question is whether the Government is determined to settle the matter properly, or whether it is, as

described by the outside, simply adopting the attitude of a "caretaker government" now.

Chairman, lastly, I would like to advise and exhort the Government to act with determination. Faced with the present social problems, someone has described the situation as being at the "critical point", which is actually not an exaggeration. If the Government does not put in more energy and efforts in this regard, when things go beyond the "critical point" and "explode", the stopgap attitude will be absolutely unable to work. We need to have long-term planning. Thank you, Chairman.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr CHEUNG Kwok-che be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr CHEUNG Kwok-che rose to claim a division.

CHAIRMAN (in Cantonese): Mr CHEUNG Kwok-che has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

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

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

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, four were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 17 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the sum for head 141 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Head 142.

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, Mr Alan LEONG and Mr CHEUNG Man-kwong have respectively given notice to move an amendment to reduce head 142 by a different amount in respect of subhead 000.

The Committee will hold the debates on the three amendments separately. The Committee will proceed to the debates in order, first on Mr WONG Yuk-man's amendment, and then on Mr Alan LEONG's and Mr CHEUNG Man-kwong's amendments.

I now call upon Mr WONG Yuk-man to speak and move the amendment.

MR WONG YUK-MAN (in Cantonese): Chairman, feasting at the public crib, one is like a weevil which nibbles at the state and harms the people. I move to cut the estimated provision for the Central Policy Unit (CPU) under the Appropriation Bill 2011.

First, backtracking and being bankrupt of integrity. It is good that LAU Siu-kai, Head of the CPU, backtracked on his comment about "the social discontent reaching the 'critical point'". Once again it lets us see clearly how the CPU, feasting at the public crib, is incapable of discharging its duties.

Interviewed by the press in Beijing on 3 March this year, LAU Siu-kai said, "Some discontent has arisen in Hong Kong a kind of resentment of the mass has developed in fact, Hong Kong may have reached a critical point." However, a day later, he immediately came forward and denied what he had said, "Basically, I did not use the term 'critical point' I only said there was indeed considerable social discontent."

If we do not reject an opinion because of the speaker, LAU Siu-kai's description about the social discontent reaching the "critical point" indeed reflects the truth. However, after the Hong Kong media's wide coverage about such sensitive wording used by him in Beijing in talking about the social discontent in Hong Kong reaching the "critical point", he might have received pressure and reprimands from the higher level. So he could not but go back on his word to deny what he had said, thus bankrupting his own integrity and credibility again.

This time the Budget put forward by Financial Secretary John TSANG has really created a big stir. The original proposal in the Budget to inject funds into the Mandatory Provident Funds accounts has not only enraged all members of the public but also triggered the final explosion of grievances accumulated over years of erroneous implementation of policies of the whole Special Administrative Region (SAR) Government led by Chief Executive Donald TSANG. It also demonstrates how the CPU, which is responsible for giving advice and proposing strategies behind the scenes, is incapable of discharging its duties.

Second, dereliction of duty and growth of social discontent. After the publication of the Budget had led to sharp criticisms across the territory, LAU Siu-kai did not step forward to defend the policy. Surprisingly, he came out to say that social discontent had reached the "critical point", as though it had nothing

to do with him. However, it must be noted that his emoluments come under the head of "Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary". As the saying goes, "Being paid by the boss, one should shoulder the boss's worries." How come LAU Siu-kai, who is paid under the name of the Financial Secretary's Office, could stand aloof?

Of course, I am speaking in the Government's shoes, but it does not represent my own view.

Since the handover of sovereignty, the SAR Government has repeatedly aroused the social discontent. Being the Government's think tank comprising so many advisors and research officers, does the CPU have no need to bear any responsibility for the blunders in implementing policies? Judging from the facts now, not only has the CPU failed to be dedicated to its duties and perform the role of getting hold of the pulse in society, it has also seriously lost touch with society, and thus the Government's implementation of policies often goes far away from the people's wishes.

Being the most important advisor for the Government's administrative strategies, how come the CPU does not carry out its duties properly and prevent the Government from antagonizing the public in implementing its policies? Social discontent keeps growing until it reaches the "critical point". Does the CPU not have any responsibility?

Third, the parasite must share the blame. For instance, did the CPU not offer any advice, take part in research and relay public opinion in the formulation of this Budget, which is the most rotten one in history? If the CPU really did not do so, that means it has failed to discharge its duties. If it did, given that the Budget is so vastly different from the public expectations, it must share the blame. Such a big group who spend some \$80 million of the public coffers each year are either ignoramus or in dereliction of duty.

What is shocking is that with the information explosion in the 21st century, LAU Siu-kai has become totally detached from the times. He does not seem to know that not only is there no way to erase what he has said in front of the camera, it will also widely spread on the Internet. Being the head advisor who studies Government policies, he is either ignorant or shameless.

Fourth, belated wisdom and collapsing system. Political commentator Mr LIAN Yi-zheng, who has worked in the CPU before, openly criticized LAU Siu-kai after LAU Siu-kai's remark about the "critical point" was reported. He further lashed the authorities for repeated wrong assessment of the situation. In response to LAU Siu-kai's speech about the "critical point", he said, "Now the Government advisors all seem to show belated wisdom. Why did no one talk about the 'critical point' a few days ago? The Government Budget was drawn up according to the book. Yet today we have suddenly come to the 'critical point' in politics? It was wrong about the march on 1 July 2003. This time it is wrong again. With regard to the major issues, the CPU's advisors cannot enlighten the Government on anything at all. Consideration should be given to disband it."

LIAN Yi-zheng also opined that the Administration's system for grasping the political situation had already collapsed. He said, "The Government's so-called policy study has been awfully wrong in its assessment of the conditions of our people and our country." He added that the Administration had failed to foresee the Central Authorities' sensitivity about the "Jasmine Revolution". None of the Government's advisors and counsellors had made the right assessment. The CPU should be disbanded.

Fifth, without drawing lessons from the past, the same mistake was made again. I believe many people still remember the march on 1 July 2003. Before the march was held in the community in objection to the legislation on Article 23 of the Basic Law, the Government had faced strong dissenting voices of the people for months. Coupled with the SAR Government's incompetence under the attack of SARS in Hong Kong and the abominable governance in Hong Kong since the handover of sovereignty, Hong Kong people's grievances were running high. To our surprise, when our state leader WEN Jiabo visited Hong Kong, LAU Siu-kai, who was the head of the think tank of the Hong Kong Government, told TUNG Chee-hwa that according to their assessment, at most only 50 000 people would take to the street. In the end, even according to the police figures, there were 500 000 people.

During WEN Jiabo's visit to Hong Kong, he went to Amoy Garden, a place which was hard hit by SARS, to do some very appealing political show. He was really nice to the Hong Kong people, was he not? He was very concerned about the Hong Kong people. Following that, he had lunch with "Old TUNG" and

asked him, "Approximately, how many people will join the procession today? (*in Putonghua*)" "50 000, Premier. (*in Putonghua*)" Yet after he went to Shenzhen, the number turned out to be 500 000. What a bolt from the blue! It turned out that this whole bunch of Hong Kong people were unreliable LAU Siu-kai is such a person. If TUNG Chee-hwa believed what he said, he would have big trouble. Incredibly, TUNG Chee-hwa really believed what he said, so he indeed ended up in big trouble. Then it was Donald TSANG's turn to believe what he said. Actually the number of Hong Kong people who took to the streets under the scorching hot weather was 500 000 or a million then. Even according to the police, which has the habit of under-reporting the figures, there were 500 000 people, right? I do not know on what basis Prof LAU Siu-kai of the CPU made the estimation. However, every year we pay the CPU more than \$80 million to conduct opinion polls as well as policy study Would it not be better throwing money into the sea?

I remember that 17 years ago, I attended a seminar on constitutional development held by "the Chinese University (CU) Long Men Zhen" (中大龍門陣) and debated with Prof LAU Siu-kai, the then Convenor of the Political Sub-Group of the Preliminary Working Committee of the Preparatory Committee of the Hong Kong SAR, about "the impact on Hong Kong caused by the Provisional Legislative Council". LAU Siu-kai supported the establishment of the "Provisional Legislative Council", while I was against it. So we had a debate. At that time LAU Siu-kai regarded the "Provisional Legislative Council" as a "necessary evil", "the best choice out of no choice". He chose to embrace what was evil. After his debate with me was over, the CU students took a vote on the spot and asked those several hundred students who were present to raise their hands if they supported the establishment of the "Provisional Legislative Council". In the end only one student raised his hand. All other students raised their hands to vote against it. A student then asked Prof LAU if he knew he was playing a "window-dressing" role. At that time Prof LAU did not reply to the student. What I am saying happened 17 years ago. At that time I already contested with him. Of course, when I debated with him, I was kind of taking advantage of him because he has a stammer whereas I have a ready tongue. If we competed with each other, he would definitely lose. Therefore I acted very politely then. I did not speak as harshly as I usually did when I debated with other people, because after all, he was a professor. As the saying goes, "The butt is directing the brain". Looking back on this past event which was related to me, I wrote it in black and white in a book. I wrote two articles.

One was entitled "From the CU Long Men Zhen" and the other one, "Do you know you are playing a 'window-dressing role'?" Both were written in 1994.

The next problem is nepotism, employing princelings who are ruining Hong Kong. The present CPU is an organization which originated from the Hong Kong-British Government. At that time the Hong Kong-British Government deliberately selected scholars who were not civil servants and engaged specialists in society to give advice on the Government's implementation of policies and act as a "thermometer". At David WILSON's time it recruited the economic elite and trained up political talents. Then in Chris PATTEN's period, it was also known as the "psychological warfare unit".

After the handover of sovereignty, the CPU was set up in the hope that it could give advice and propose strategies to the Government as well as conduct research. However, if we now take a look at the full-time and part-time members appointed by the CPU, we will see the growing tendency of adopting political loyalty as the consideration for appointment, while closeness with the Liaison Office of the Central People's Government in the Hong Kong SAR has also become one of the criteria for appointment.

Let us look at the current part-time members. They include the daughter of CHEN Zuoer, former Deputy Director of the Hong Kong and Macao Affairs Office of the State Council; the son of HUI Cheung-ching of the Hong Kong Progressive Alliance (that means the present Democratic Alliance for the Betterment and Progress of Hong Kong); the son of SZE Chi-ching, member of the National Committee of the Chinese People's Political Consultative Conference (CPPCC); the son of WONG Po-yan, former Deputy Director of the Committee for the Basic Law; the son of Rita FAN, member of the Standing Committee of the National People's Congress; and the son of HU Fa-kuang, member of the CPPCC. Buddy, actually I could join the CPU as a part-time member, could I not?

Then there is the problem of treating close and distant relationships differently, heeding and trusting only one side. The CPU's present structure is cumbersome. Under its Head LAU Siu-kai, there is one Deputy Head (who is present right now), three full-time members, one Secretary to the Commission on Strategic Development, one Research Director, seven Senior Researchers, as well as one Assistant Secretary to the Commission on Strategic Development, one

Government Town Planner and one Principal Researcher. Moreover, there are 40 part-time members. That already costs us some \$80 million, right?

The CPU's main functions are presumably to conduct studies on public policy, compile the annual Policy Address and offer advice on all Government decisions concerning its implementation of policies. It is the chief advisor on the SAR's philosophy and policies of governance. Its another function is to grasp the public opinion so that policies introduced will not go against the public opinion, thereby causing a crisis in administration.

Among the various functions, the most important one is to grasp the public opinion. The approach originally comprised various methods, for example, by establishing a social network. However, now it seems such a social network has utterly failed. The biggest reason for its failure is heeding and trusting only one side. That is, the network established under Chief Executive Donald TSANG's policy of "treating close and distant relationships differently" would inevitably be biased, and thus it was unable to get hold of the pulse in society. Another method was focused discussion. However, since the vast majority of those who were invited to participate in such discussion were obsequious yes-men from the pro-establishment camp, the opinions reflected certainly did not represent the whole society.

Furthermore, universities or other organizations would be appointed to conduct opinion surveys. This should be the most scientific method. Regrettably, dominated by the CPU, this method was also a total failure. Those opinion surveys were either "defective" or "selective" so as to serve the pre-set purpose of executive hegemony. From the assigned topic for the surveys to the contents of the questions and answers, everything was highly biased and misleading. Besides, the CPU would selectively use those survey data needed by the Government but turn a blind eye to those which were unfavourable to the Government. That is the reason why such opinion surveys were rarely published.

Mediocre officialdom does harm to Hong Kong. It has caused "Old TUNG" to step down on the grounds of leg pain. Today, no one with the slightest sense of shame should behave like Prof LAU Siu-kai, who did not repent, fail to reflect on his own deeds and just let people deride and taunt him, holding on to his good job in his own way.

The attractive remuneration of \$2.89 million a year may be irresistible to LAU Siu-kai, but having worked for so many years, he probably has earned more than enough, right?

Next, feasting at the public crib, one is like a weevil which nibbles at the state and harms the people. A "weevil" is like a parasite. This bunch of people who would only feast at the public crib and commit dereliction of duty are like weevils nibbling at the state and harming people. A "weevil" is an insect which feeds on grain and destroys crops. It is the most suitable description for this bunch of "parasites" who fail to discharge their duties. As a result, we hereby propose to remove the whole CPU. So the estimated provision for the CPU this year should be entirely deleted. Thank you, Chairman.

Mr WONG Yuk-man moved the following motion:

"RESOLVED that head 142 be reduced by \$85,899,000 in respect of subhead 000."

DR MARGARET NG (in Cantonese): Chairman, I speak in support of the amendment proposed by Mr WONG Yuk-man. I implore the Government to take this opportunity and consider whether the Central Policy Unit (CPU) has completed its historic task. Should this organization be disbanded?

Chairman, the CPU was established in 1989 under the British-Hong Kong Government. I was one of the first batch part-time members of the CPU. Why was the CPU established then? I think Members will recall that in 1989, the Legislative Council was about to have Members returned from direct elections. Therefore, Sir David FORD, the then Chief Secretary, proposed to establish the Government's own think-tank.

In 1989, the concept of think-tank was novel. What were its functions? At that time, the Legislative Council would soon have new Members returned from direct elections. These Members might adopt a more critical attitude against the Government and bring in outside views from the community. Under these circumstances, the Hong Kong Government should not be unprepared. It should "know thy self, know thy enemy". The Government should have prior knowledge about the criticisms to be directed by the opposition so that it could

gain one step ahead and anticipate the voices of the community. For this purpose, a proposal was made to establish the CPU. That is one of the reasons why this agency was established then.

Another reason for the establishment of this organization is the first direct election of the Legislative Council in 1991. All along, policies of the British-Hong Kong Government were decided by a team promoted from the rank of civil servants. Of course, there were benefits with this mode of decision-making. However, one prominent feature of such was the existence of red-tape with a tendency of following established practices. As such, the vision of its decision-making was limited. Therefore, the Government hoped that with members from outside the Government, the CPU could create an impact with its perspectives out of the box. According to the proposal, the CPU would serve three persons, namely the Governor, the Chief Secretary, and to a lesser extent, the Financial Secretary. The Financial Secretary was also included because the entire top echelon of the Government would hopefully benefit from the new perspectives.

When new policies were proposed by civil servants, the Governor, as the leader of the colonial government, could have different ideas. Could these new policies be implemented by the Government? Of course, it would depend on whether the relevant ideas were accepted by the civil servants. The Hong Kong Government wanted to have some new thinking; it did not want all the ideas coming from civil servants.

At that time, the first full-time member of the CPU was Leo GOODSTADT. Members may know or recall that GOODSTADT was in fact a well-known staunch critic against the Government. What was his specialism then? He specialized in economic and financial analysis and was particularly well-versed with the financial development in Mainland China. He also had a good understanding of the business sector in Hong Kong, such as what kinds of businesses were run by the family of Mr Henry TANG, the incumbent Chief Secretary for Administration, and how they operated. In this respect, he had strong background in the commercial, economic, financial and banking sectors. Those were the fields where the British-Hong Kong Government lacked knowledge and connection.

The Government's intention then was obvious. Why did it want to engage someone who was always critical about the Government as its consultant? Why did it let him ask the most difficult questions and criticize the Government on television every day, so much so that the Government was speechless? Why did it want to engage someone like that? The intention was that if there were criticisms against the Government in the community, we might as well find someone who was most critical and outspoken, and who had independent thinking to voice out the criticisms first so that the Government could get prepared.

As for part-time members like myself, Anna WU, Christine LOH, and so on, we always criticized the Government and for that matter, quite harshly. Of course, not all members of the CPU were critical of the Government; some were pro-Government. The Government wanted to establish such a team, and the members then were all relatively young. In 1989, I was so much younger then. It was the Government's wish to introduce these kinds of thinking. Hence, that was the function of the CPU.

To what extent had the CPU performed this function? As the discussion of the CPU is confidential, I cannot divulge anything here. I will leave it to others to make a judgment on the extent of the CPU's achievements.

However, all along, the success or otherwise of the CPU depends on whether it can achieve the objective of its establishment, that is, to constantly expose the senior officers of the Government to the impact of new ideas and make them aware of harsh criticisms internally, so that they can "think out of the box" and have new ideas and perspectives. As a result, civil servants can also come up with innovative policies. Of course, it is very difficult for me to make a judgment on the success or otherwise of the CPU in this regard.

However, speaking as an insider — I have subsequently left the CPU as a part-time member I recall that members of the CPU were engaged for a two-year term and new members would join constantly. However, in the run-up to 1997, I gradually sensed a change in the CPU's role, being increasingly against united front. Was my view correct? I do not know.

However, I have been observing the work of the CPU recently. I no longer see the CPU performing the above functions or achieving the above objectives. I only notice that many a times, it would conduct some opinion polls or draft some study reports. At the time, Leo GOODSTADT had been working in Hong Kong for many years and had taught in universities. He had also worked for *Far Eastern Economic Journal* for many years. He had a profound understanding on the financial and political development in the Mainland.

After the reunification, there is a greater need to understand the conditions of China. But we hardly notice any contribution from the CPU in this regard. On the contrary, we only notice the opinion polls it conducted from time to time; but the polls were quite general and of a mediocre standard. For many years in the past, whenever the budget was announced, we would put questions to the Government in this regard. Although I had also asked some questions in the past, I no longer do so in recent years. This year, only Ms Cyd HO still persistently put questions to the Government about what studies have been conducted by the CPU and whether they could be made public? As we read the titles of the completed studies, we cannot help but ask why does the CPU undertake those general and superficial studies? Hence, we increasingly have a definite feeling that the CPU is under par. It is not forward-looking in terms of anticipating the changes in the community and pointing towards a right policy direction. It cannot give prior warning to the Government about the changing circumstances and the proper contingency measures to be taken.

Conversely, we notice that the CPU is not minding its principal duties. One of the CPU's responsibilities is to provide secretariat service to the Commission on Strategic Development (CSD). In fact, why is it necessary for the CPU to provide secretariat service to the CSD? What is so difficult about providing secretariat service to the CSD? Moreover, we can clearly see Donald TSANG's intentions from the CSD. Unfortunately, Ms Audrey EU is also a member of the CSD. She is a very agreeable person and I will refrain from making excessive comments. But obviously, Donald TSANG considers that too many people belonging to the opposition camp are involved in the discussion on constitutional development in the Legislative Council. Hence, he wants to engage a greater number of relatively conservative persons in the community who do not belong to the opposition camp.

As far as I am concerned, the CSD should have never been established in the first place. However, even if the CSD should be established, is it necessary to appoint the CPU to provide the secretariat service? I think this should not be a principal duty of the CPU. Chairman, all along, I consider the biggest problem is that I increasingly fail to see the CPU performing any unique functions. After the implementation of the accountability system, the entire organization has been changed. Irrespective of whether I support, criticize or endorse the accountability system, its objective lies with the making of political appointments, that is, the appointment of persons outside the Government to become Directors of Bureaux. These persons are particularly sensitive politically and they will think from the political perspective. With the further development of the accountability system and the system of political appointment, deputy directors of bureaux and political assistants were appointed. In the community, more and more non-government think tanks have emerged. Some non-government think tanks even receive substantial funding support from the Government or have pro-government background.

Of course, I know the Bauhinia Foundation Research Centre does not consider itself pro-government. All think tanks would consider themselves neutral. But in fact, many non-government think tanks have already established contacts and dialogue with the Government. Under the existing structure, is there any need for the continued existence of the CPU? Does it have any credibility in the community? What contribution does it make to the Government? I think the SAR Government should review the role of the CPU under the existing structure and assess the need for its continued existence according to the principle of money-for-value.

Just now, Mr WONG Yuk-man made a lot of criticisms against Prof LAU Siu-kai. I see no need to add my own comments, but his performance really fails to command our respect. Recently, after the "critical point" incident, Mr Joseph LIAN, a long-serving member of the CPU — he is a stalwart, both as an academic and a commentator, with excellent knowledge and shrewd perception — said that after all these years, the CPU should no longer exist and it is time to disband the CPU. This is by no means a hasty comment. The Government should carefully consider such a view. I see no need to make criticisms about Prof LAU Siu-kai's mistakes. There is indeed a reason for the inception of the CPU but its historic mission may have been completed. Let us take this

opportunity presented by the Budget debate to review whether it is about time the CPU should be disbanded.

Thank you, Chairman.

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

MR ALAN LEONG (in Cantonese): Chairman, I am fortunate enough to have worked as a part-time member of the Central Policy Unit (CPU) from 2001 to 2003. At that time, my "classmates" included Prof LAU Siu-kai, Prof K C CHAN who is now a Director of Bureau, and Ms Sarah LIAO who was the Secretary for Transport and Works of the previous term of Government.

At that time, we met on Saturday mornings once every two weeks in the Government headquarters. While I enjoyed very much our exchanges on those half-day sessions, I found myself the least capable in the entire CPU because the views expressed by other members were invariably shrewd and penetrating. As regards the existing CPU, I am no longer certain about its exact functions. For the outsiders, they only notice the opinion polls conducted by the CPU. Seemingly, the CPU has become an institute of public opinion. Just now, some Members asked whether the CPU had been inundated by the "princelings party", and whether it had become a recompense for political services? I find all these somewhat saddening.

Dr Margaret NG just mentioned that she was one of the first batch part-time members of the CPU in 1989. Hence, she has given a clear account of the origin and historical background of the inception of the CPU. If we compare the objective for the establishment of the CPU then with its operation and duties today, we can clearly see that its functions and role have changed drastically. In order to maintain the operation of this organization, more than \$80 million is required annually. Recently, Prof LAU Siu-kai, the head of this organization, has come under questions about his integrity in relation to his "critical point" remark. Regarding this year's Budget, the CPU should have played an important role in grasping public opinion, understanding public expectation and analysing public sentiment. However, the Budget it prepared is full of blind spots and deviates significantly from public opinion. As a result, the Financial Secretary

looks as if he is totally out of touch with the people. Is there any dereliction of duty on the CPU's part? Even if the Financial Secretary is really out of touch with the people, and even if the Budget he prepared is full of blind spots, the CPU should have patched things up for him if it is working according to our expectation.

There are only two possible reasons. Either the CPU is crap or the Financial Secretary is stubborn and "deaf" to other views. In other words, no matter what good advice was given by the CPU, the Financial Secretary just refused to listen or pay any attention to these views. However, I can see no evidence showing that the Financial Secretary is such a person. Hence, we cannot discount the possibility of serious dereliction of duty on the CPU's part. It utterly fails to make up for the shortfall of the Financial Secretary in grasping public opinion and analysing public sentiment. It also fails to address his blind spots and alienation from the people.

The capricious remarks made by the Head of the CPU have called into question his integrity. While he has clearly mentioned the term "critical point", he denied it completely after 24 hours. Here is a man who lacks hindsight and cannot help make up the shortcomings of the Financial Secretary. Moreover, the CPU is most unwilling to share the findings of its consultancy studies even though these studies were undertaken with public money. Let me cite an example about universal retirement protection which is the talk of the town lately. Of course, I have to admit that a study on universal retirement protection must necessarily involve a lot of data and analysis as well as challenges by experts before its findings can be soundly established. However, as I left the CPU in 2003, I already heard that a consultancy study on universal retirement protection was underway. At least eight years have lapsed. It was not until about two weeks ago at the special meetings of the Finance Committee of this Council that Mr Robin IP told us that it had yet to conduct some surveys on household income and family conditions in Hong Kong before a decision could be made on how to make public the relevant findings.

In fact, we are all extremely concerned about the issue of universal retirement protection because we are afraid that the three pillars as mentioned by the Government would be insufficient to meet the needs of the rapidly ageing population in Hong Kong upon retirement. Under the circumstances, should the CPU share with us the relevant findings so that the actuaries or the persons

concerned in the community can have some data as the basis of discussion? However, the CPU is most unwilling to share the information with us.

Of course, in addition to such information, we also want to obtain other data. If we browse through the CPU's website, we indeed see that the findings of some consultancy studies have been released. However, many a times, the data I want most is unforthcoming. For example, the Government may withhold certain information because the same is too sensitive or it may be a slap in the Government's face if it eventually decides to implement some policies that are arbitrary and go against public opinion.

The situation is always like this. Our observation from various perspectives shows that the integrity of the Head of the CPU is questionable and he cannot properly assist the three "bosses" of the CPU. At least, he cannot properly assist one of the "bosses", namely the Financial Secretary, with the effect that the Budget he proposes this year is full of blind spots and deviates significantly from public expectation. Seemingly, the CPU cannot perform the duties as described by Dr Margaret NG, that is, to engage persons in the community who are the most critical and unforgiving about government policies, yet who are also the most outstanding, so that these policies can undergo more comprehensive and in-depth consideration within the CPU before their announcement. The CPU has now become a tool to achieve united-front through opinion polls and a means of political compensation. The CPU is also most unwilling to share the findings of its consultancy studies.

Hence, if these doubts are yet to be clarified and we still endorse the provision for the continued operation of the CPU, the public will query whether we have properly performed the role of the Legislative Council as the gate-keeper of public expenditure. I will also have serious doubts myself. Hence, for these reasons, Chairman, the Civic Party will support Mr WONG Yuk-man's amendment. If the CPU can provide satisfactory answers to these questions, or convince us that the CPU still has certain value of existence and should not be abandoned, we will of course reconsider our stance.

The Chief Secretary for Administration is present today. When he speaks later, he is of course welcomed to respond to the points I just raised. I always adopt an open attitude. And if I hear any view or argument that is truly convincing later on, the Civic Party will of course reconsider our stance on

voting. We will respectfully listen to the speech of the Chief Secretary for Administration and his responses to the doubts I raised. I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, when I heard the "critical point" remark of Prof LAU Siu-kai, I invariably thought of a famous saying in philosophy, "What is mind? No matter. What is matter? Never mind". As it is widely known, this quotation from Bishop BERKELEY encompasses the essence of subjective idealism. But surprisingly, an academic in socialism who specializes in researches and consultancy studies has resorted to this viewpoint of subjective socialism in explaining whether he had actually said the term "critical point". He emphasized that it was immaterial whether he had actually used the term. He said he might not have used the term "critical point", but he could actually have this meaning in mind. Is that precisely, "What is mind? No matter. What is matter? Never mind"? Nonetheless, I think Prof LAU was under extreme pressure that day to have said something like this because the community was filled with queries and tensions after the announcement of the Budget. Some people have gone to Beijing to make "secret reports". These people would of course defend the Government while they were in Hong Kong; yet when they were in Beijing, they would no longer defend the Government but "kick its ass". Hence, under such pressures, he pointed out that Hong Kong's situation had come to a "critical point", but denied it emphatically afterwards. As a scholar, he is "done"; but as an official, he may not be "done" because government officials would admit neither responsibility nor wrongdoing unless concrete evidence is available. Moreover, as an official, he will never apologize even under such circumstances. Just as the lyrics of an Elton JOHN song said, "Sorry seems to be the hardest word".

Undoubtedly, Prof LAU does have some specialized knowledge, but his knowledge may only be useful during the colonial era because of the then policy of administrative absorption of politics. Under the colonial administration, it was impossible to achieve political democratization — the colonial government would of course never become a democracy for various reasons. The colonial administration did not want to achieve democratization; and even if it had wanted to do so, this would not be allowed by the Communist Party for fear of triggering Hong Kong's independence.

Talking about the colonial government, its governance was deplorable after the riot in 1967. A person named SO Sau-chung was put behind bars because of a fare increase of "five cents", and the gathering of numerous supporters had resulted in the riot. Therefore, when people say the post-90s and post-80s today are dangerous, do they really know what they are talking about? A person named SO Sau-chung walked in the streets wearing his leather jacket inside out as a protest against the fare increase had resulted in this incident. There was opposition whenever there was suppression. While the report on 1966 riot had yet to complete, another riot had happened in 1967. The report on the 1966 riot was only published during the riot in 1967. Don't you think it is ridiculous!

Naturally, the colonial government with rule by foreigners was superior. Outstanding Chinese were co-opted to serve in the Government. Hence, we seldom see people belonging to second or third post-war generations come forward to speak out in the community even though they received British education. Administrative absorption of politics was indeed a mammoth task. Firstly, the Secretariat for Home Affairs was set up after the riots; and later, it became the Home Affairs Department. Through these departments, a system was gradually established to garner public sentiment and public opinion. Gradually, political talents were co-opted to join the Government and the advisory bodies. What jobs would be taken up by graduates of the Hong Kong University in the past? They either worked as Administrative Officers or Executive Officers. If you dared cause any trouble As far as I know, some senior officials have actually taken part in student movements in the past, but now they are sitting in front of me and talking.

The system of administrative absorption of politics has been working well. The problem is that it no longer works today. Why? Because The British colonial government always treaded on thin ice because it lacked legitimacy. It had to flee once when major riots happened. Whenever major riots happened, people would invariably ask, "Why am I under your rule?" After the reunification, a system has emerged. In fact, Dr Margaret NG was right. When Chris PATTEN assumed office, the dynasty was coming to an end. He could do whatever he wanted and he played with politics. His war room was more important than anything else. The Central Policy Unit (CPU) should have been abolished then, but it was not. Lacking in authority, the new SAR Government even conjured up a Provisional Legislative Council. Having no

better ideas, it could merely follow the steps of its predecessor and let the CPU continue operation. From a certain point of view, LAU Siu-kai is an officer comparable to "the emperor's teacher". Do you know what is meant by "the emperor's teacher"? It means even the emperor must listen to him. When the emperor was small, he was the teacher who taught the emperor how to read and write. When the emperor grew up, he became "the emperor's teacher". Of course, a person at the level of "the emperor's teacher" should never act capriciously.

Secondly, from an academic point of view, administrative absorption of politics no longer works because of the emergence of politicalization. However, the Government is still implementing the system of administrative absorption of talents. It even builds this unauthorized structure of the CPU and invites people to submit their views. But the people only want to discuss their views in forums now. It does not matter whether the views we expressed in this Council are right or wrong, the CPU just will not listen. Instead, it goes into a dungeon and closes the door before inviting views from the people. For example, it says it does not want to hear the views of "Long hair"; it only wants to listen to the views of a particular person. Such a practice is doomed to fail.

Administrative absorption of politics is only a tool of "open autocracy". LAU Siu-kai is a scholar who truly succumbs to the social function of administrative absorption of politics. However, he must understand that the flop today is a result of the changing times. Can everything stay the same as in the past? After Chris PATTEN came to Hong Kong, he had already said you were no longer needed. He would undertake anti united-front work and fend off the Chinese side. He would meet with Members directly in the Legislative Council. Buddy, after the reunification, the agency for administrative absorption of politics has become an organization of united-front and suppression. It even stops inviting people to meals so as to solicit their true feelings and collect the opinions of talents. It is useless even when the people reflect their views to the Government.

Chairman, during the "fiasco" in 2003, the situation was extremely precarious. Even Regina IP resigned and you had suggested convening a "round table meeting" so that all parties and groupings could come together for discussion. Buddy, this mechanism of administrative absorption of politics is

out-dated because everything has become politicized. Nonetheless, the Government even goes one step further and turns the CPU into a tool for suppressing opposition views — the CPU has no academic knowledge, no credibility and no co-opt function, what is it good for? Do you know that the CPU is a dose of expired medication, a dose of expired "aphrodisiac"? It cannot make you "high", it does nothing.

Honourable Members, an analysis from theories and the political situation will tell us that starting from LAU Siu-kai's reluctance to relinquish his position to the high regard given by "Old TUNG" and then Donald TSANG to this post, the system of the CPU has become completely rotten. However, the Government has done nothing to this official system because it can still function as a recompense for political services and a tool to suppress the opposition. Why did LAU Siu-kai say there would only be about 20 000, 30 000 or 50 000 persons taking to the streets on 1 July 2003? Do you think he really made a wrong estimation? He might have estimated correctly, yet he wanted to employ verbal coercion tactics. He was saying that, "There is just 20 000 to 30 000 persons. Don't go, buddy." The situation is the same now. Hong Kong is like a police state with the people being subject to constant threat.

A scholar is no longer a scholar, he is no longer an admonishing official or the emperor's teacher. He just goes after the remuneration. I will be fair and stop making personal attacks against him. Buddy, is it still necessary to implement administrative absorption of politics after the establishment of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office)? The Liaison Office alone is good enough and the CPU has been overridden. Worse still, the Government has created another authorized structure. Considering that the CPU's performance is under par, it has set up the Commission on Strategic Development (CSD); considering that the CPU is crap, it has set up the CSD and there comes another means of recompense for political services. That is beyond explanation. If something has become obsolete, you just keep it as a souvenir. Chairman, if your watch is a souvenir, you will put it away and you will not take it to service each month. However, we must now pay for the expenses of "servicing" the CPU and it costs \$80 million annually. Moreover, this watch in the name of the CPU tells the wrong time. If you count on it to wake you up so as to take medicine, you are doomed. I need to take my medicine once every four hours, but this watch only sounds its alarm once every 14 hours. Even if I wake up and

take the medicine immediately, it is already too late. This has also caused great trouble for TUNG Chee-hwa because he woke up after 14 hours to take his medicine.

Honourable Members, I have already tried to downplay the seriousness of the situation. However, there are reasons for the change of this corrupted official system. Why has it acted against the times and become malfunctioned theoretically? Why? Our society has become increasingly complicated and the influence from the Central Authorities on Hong Kong has become increasingly direct. What has been done by the CPU? Dr Margaret NG has already explained clearly the functions of the CPU. It has now become a tool of united-front and suppression. Moreover, CHEN Zuo'er — the person who talked about a car crash resulting in fatalities back then — his daughter also works for the CPU now. Buddy, I do not know if she is remunerated; if so, that is really terrible.

Please, do some good! Please do not bring nepotism into politics. That is really terrible, just like what they said during the Cultural Revolution, "The son of a hero must be a stout fellow too"; just like in India where pigs, cats and dogs are all sacred. As the Chinese saying goes, "One can easily become an official if he has some connection in the imperial court." They are unconcerned about praises or criticisms as long as they remain in power. Buddy, what do you really want?

Chairman, as soon as the idea of abolishing the CPU was mentioned, some people said, "What shall we do if it is abolished? We have nothing if it is abolished." However, buddy, nothing new will be established if the old is not removed. The CPU has already become Not having done any homework myself, I only rely on the information given by Dr Margaret NG and others. Buddy, if you want the CPU to provide secretariat service to another organization, please forget it. Why must we spend \$80-odd million to maintain a secretariat to service another organization? Another person is getting married and the CPU is making wedding clothes for him. But the CPU is not getting married.

Therefore, Chairman, we know that this official system can hardly rejuvenate or reform under the current system of small-circle elections. In fact, Henry TANG, the Chief Secretary for Administration, is a good example. He has the experience of working from the bottom to the top and he progresses in a

snail's pace. He is now just under one person and above all others. He knows clearly what the CPU is about. Even Mrs Regina IP was dragged down by the CPU because it had misinterpreted public sentiment about Article 23 legislation. Either the CPU knew clearly and dared say nothing, or it knew nothing and talked nonsense. That was also terrible. It knew clearly and dared say nothing because it dared not upset the rulers. It can never upset the rulers.

Therefore, this matter is really very simple. I understand that under an "open autocracy", capable persons would be appointed to certain positions. The Government considers that Members are not up to standard and the people it appoints are more capable. However, buddy, with nepotism and small-circle elections, do they dare tell the truth? Can the Government really find some exceptional talents? Hence, I say just kill it, kill it, kill it.

MR FREDERICK FUNG (in Cantonese): Chairman, I hope you can correct me if I am wrong. I think we are now having a debate on the amendment proposed by Mr WONG Yuk-man, and not the one proposed by Mr CHEUNG Man-kwong. Mr CHEUNG Man-kwong's amendment is about deleting the provision equivalent to one month's salary of the Head of the Central Policy Unit (CPU), while Mr WONG Yuk-man's amendment under debate is related to the entire CPU. However, many Members who spoke just now have talked about Prof LAU Siu-kai; yet Prof LAU is the relevant government official in Mr CHEUNG Man-kwong's amendment. Hence, I think the speeches made by many colleagues are unrelated to the subject under debate.

Separately, I do not know if this constitutes a declarable interest, but Prof LAU Siu-kai was a teacher of my major subjects during my study in The Chinese University of Hong Kong (CUHK). I have graduated from CUHK a long time ago and this of course does not necessarily constitute any interest. But I must account for our relationship. Why? Because I do not support this amendment, but I will support the next amendment specifically related to Prof LAU Siu-kai. There is a difference between a problem with the head of the department and a problem with the entire department. I hope we can be rational. I think some colleagues are discussing the matter rationally. Therefore, I hope we can all have a rational discussion.

I am not and have never been a member of the CPU. I do not even know the work of the CPU. I am only a member of the Commission on Strategic Development (CSD). If an appointment to the CSD is a recompense for political activities made by the CPU on behalf of the Government and I was appointed for this reason, it must have identified the wrong target. Some colleagues are also involved in the work of the CSD. They certainly know what I have said in the CSD. Every time, I am in opposition to the Government. I am a die-hard critic of the Government who invariably points out its mistakes while trying to convince it to accept my views. I think the Government has appointed a member from the opposition camp to the CSD. If they think they can silence Frederick FUNG and the Hong Kong Association for Democracy and People's Livelihood (ADPL) through such an appointment as a recompense for political activities, they are wrong. Since the 1980s, the ADPL and Frederick FUNG have been using our influence both inside and outside the councils trying to convince the Government to change and improve its policies and accept our views. This is our objective all along. This has never changed because of any appointments made by the Government, even with my appointments by the Central Government as a Hong Kong Affairs Adviser and a member of the Preparatory Committee of the HKSAR.

Why do I mention these things? What I want to say is that it depends on the appointee as to whether such an appointment will constitute a recompense for political activities. However, I am talking about the expenditure of the CPU today. I think no matter we are talking about a political figure, a political organization or even a government, it is most important for the decision-maker to accurately grasp and analyse the conditions in society and the trends of the community; the more accurate the better, the more accurate the more appropriate. Even if someone is not upright, who only cares his own interests and does not care about the interest of the people, he can never ensure good governance if he does not have such a tool. Even if a kind-hearted leader cares about the interest of the people and hopes to achieve good development for Hong Kong, he can never be a good leader in the absence of a dedicated department to undertake researches and studies on policies and public opinion. Therefore, regarding the Chief Executive who is the highest leader in Hong Kong, should there be a central policy unit to conduct opinion polls as well as analyse public opinion and social conditions for him and help him formulate strategies? I think there is nothing wrong with it.

The only question is whether this organization has provided reasonable and correct analysis, and whether its strategies are accurate? How many strategies it has proposed, and how many of them have been accepted by the Government and the Chief Executive? I have absolutely no knowledge about it. As I know nothing about it, I must then ask, but I cannot presume that it is not working well or make a negative judgment about the CPU's work in formulating strategies because I have no knowledge about it. I honestly cannot make this judgment. I can only say that from an objective view of an outsider and basing on my knowledge of studying politics in the United Kingdom and CUHK, there is a genuine need for such a department on the part of a ruler, an organization and a government from a political perspective. How can they grasp public sentiment and public opinion without any surveys? If there is no organization to undertake social analysis, is the Chief Executive supposed to do his own analysis? Of course, he needs support from others. But there is no guarantee that good or correct strategies will be formulated with such support and analysis. If there is a way to guarantee that no mistakes would be made by officials who formulate the strategies, there should be no trouble, riots and revolutions of various sizes and scales, or even the financial tsunami in this world. Talking about political organizations for formulating strategies, the United States is among the best in the world, but it was also affected by the financial tsunami. Therefore, nobody can guarantee that the organizations for formulating strategies are fool proof.

What is wrong about providing secretariat service to the CSD? I am a member of the CSD. We would receive many papers before each meeting. If the CPU is undertaking consultancy studies on various long-term issues, our relationship with the Mainland, and major social issues relating to Hong Kong as a whole, I think it would be a better arrangement for the CPU, under the leadership of Prof LAU, to undertake researches, consultancy studies and analysis for the CSD than a secretariat comprised of ordinary civil servants.

Regarding the budgets and policy addresses, I really have no idea about the CPU's involvement in respect of drafting and providing input, and how many of the contents are correct or otherwise. The CPU may have been involved, but I cannot draw a conclusion hastily. However, even though the CPU is involved in drafting or providing input, the final decision-makers are still the Financial Secretary and the Chief Executive. If there is any problem, the Financial Secretary and the Chief Executive should be responsible. Accountability should be taken by the final decision-makers. This amendment is related to the entire

CPU. But if the question is about statements made by Prof LAU Siu-kai, such as his "critical point" remark, then it should be dealt with later under the amendment proposed by Mr CHEUNG Man-kwong.

We can deduct his monthly salary or even dismiss him so that he is made responsible because it is correct to put him to task. He is not a civil servant, and he was appointed by the Chief Executive. However, if we abolish the entire CPU by deleting the relevant provision, the persons who will be dismissed as a result are not limited to the officer-in-charge who is a political appointee, but civil servants working in the CPU. Civil servants are civil officials and the matter has nothing to do with them. They are merely responsible for carrying out their duties. Why should they be dismissed also? This is a question I cannot answer. Therefore, in today's debate, I will oppose to all amendments seeking to delete the expenditure of an entire department including the several amendments proposed by Mr James TO, the present amendment and the one to be proposed by Mr Albert CHAN later on. I can accept a proposal to deduct the salary of the department head as long as he is found to be at fault.

Therefore, Chairman, all in all, on account of the several reasons and justifications mentioned above, I cannot support the proposal to delete the expenditure of the entire CPU, which effectively disbands the whole department. But in respect of the errors related to Prof LAU Siu-kai's remark or his mistakes, I will speak about them later when Mr CHEUNG Man-kwong proposes his amendment. I will state clearly that as I also consider him at fault, I agree to deduct his one-month salary. However, I cannot support this amendment.

(Mr WONG Yuk-man pressed the button to indicate his wish to speak again)

CHAIRMAN (in Cantonese): I will first see if there are other Members who wish to speak and then invite Mr WONG Yuk-man to speak again. Does any other Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Chief Secretary for Administration, please.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Chairman, Mr WONG Yuk-man's amendment proposes to delete the total estimated expenditure of the Central Policy Unit (CPU) in 2011-2012. The Government opposes to this unjustified amendment.

In formulating its policies, the SAR Government has always been mindful of public sentiment, and we need to evaluate the short-term as well as long-term impact of various policies on Hong Kong. In this regard, an important supporting role is played by the CPU.

Extensive consultancy studies are conducted by the CPU in various social, political and economic aspects, including issues related to the long-term development of Hong Kong as well as livelihood issues which are of concern to the people in the community.

Seminars, conferences and forums have also been organized by the CPU periodically. Both local and international scholars and experts have been invited to take part. Moreover, the CPU also encourages discussion on public policies by various sectors of the community.

Separately, the CPU often commissions both academic and commercial research institutions to conduct opinions polls on political, economic, social, quality of living, as well as issues of public concern for internal reference of the Government so as to understand public opinion and grasp public sentiment.

The CPU is also responsible for assisting the Chief Executive in drafting the policy addresses, as well as providing secretariat support and advice to the Commission on Strategic Development.

From the above, it is clear the CPU's work is vital to the Government's administration. I so submit and implore Members to oppose the amendment.

MR WONG YUK-MAN (in Cantonese): Chairman, my amendment is primarily about deleting the total estimated expenditure of the Central Policy Unit (CPU) this year. I have stated in the last paragraph of my speech that I considered that this organization should definitely be abolished for it serves no value in existence.

Just now, Mr Frederick FUNG said many civil servants were working in the CPU, and he found it hard to accept that these civil servants were dismissed. I want to ask him, is his father a civil servant? Civil servants can be transferred to other departments, and they will not be dismissed. What is his theory anyway? This organization has failed in its duties and we, Members of the opposition camp, sometimes lack the power of monitoring. Hence, we can only take the opportunity of the budget debate to propose our motions and express our views according to the provisions of the Rules of Procedure. That is what we should righteously do.

He can argue with me that my method is improper. He can refute the detailed arguments I just presented in my speech one by one, so as to explain why he opposes my amendment. However, I can really make neither head nor tail of his reasons. How come something like the dismissal of civil servants happen in this case? They can be transferred to other departments, right? I do not know whether there are any civil posts, such as AO posts, in the CPU, but they are all transferrable, right? All the members of the CPU are appointed, such as Mr IP, Prof LAU and Prof LEE who are sitting in this Chamber. They are all appointed for a specific term, right?

The problem is that this organization is no longer working properly. Regarding the proposal to deduct the salary of one person, is that not even more humiliating to Prof LAU Siu-kai? Is that not even more personal in nature? I must say that even when I speak of Prof LAU now, I still respect him very much. I only propose this amendment because he has achieved nothing worthy of our positive comments after assuming this post all these years. We have listed out many facts about his incompetence. Apart from Prof LAU personally, the department under his leadership also fails. To put it bluntly, he has no way to avoid responsibility. The CPU is a department responsible for formulating strategies, yet it has done nothing to rectify the poor performance of the Government.

Mrs Regina IP said that the Under Secretaries and Political Assistants were all "learners". She is quite right. He is still a "learner" after all these years. Has he provided any input on this system of political appointment? Yes, he certainly has. Frederick FUNG just said that the ultimate responsibility should be borne by the Financial Secretary, the Chief Secretary for Administration and the Chief Executive. However, if that is the case, it should apply to all

departments, right? Then what about accountability? We must of course hold the individual departments responsible. Why do we sometimes scold individual Directors of Bureaux, Secretary Matthew CHEUNG, or others, and hold them accountable? If you say the Chief Executive is ultimately responsible, then the Chief Executive alone needs to resign, is that right?

Therefore, by proposing this amendment, we, as Members of the Legislative Council, simply want to express our views in this Council through our powers as vested by the Rules of Procedure. Also, we all know that it is ultimately futile because the amendment will certainly be vetoed as a result of separate voting. However, he is a Member belonging to the democratic camp — I do not want to say that he is defending his master. He said he would support the proposal to deduct one-month's salary. However, this amendment is in fact more serious because that is obviously targeted at Prof LAU Siu-kai personally, whereas our proposal is against the entire organization, right?

Chairman, I just want to say one more thing. We propose this amendment simply because we want to express our extreme dissatisfaction with the CPU for its misconduct and dereliction of duty over the years.

(Mr Frederick FUNG raised his hand in indication)

CHAIRMAN (in Cantonese): Mr Frederick FUNG, do you want to speak again?

MR FREDERICK FUNG (in Cantonese): Yes.

CHAIRMAN (in Cantonese): Please be concise.

MR FREDERICK FUNG (in Cantonese): Yes, I will.

Chairman, in fact, many motions today — particularly the ones to follow — are all targeting individual persons and I support them all. That is because the spirit of accountability is to target individual persons, the Directors of Bureaux concerned. The responsible Director of Bureau should be held

accountable. What is the big deal about it? Why would someone consider it a big deal? I am really puzzled because Mr WONG Yuk-man never considers anything a big deal. I do not consider it a big deal, and my target is LAU Siu-kai. Therefore, I will support the latter proposal to deduct his one-month's salary. If the problems just raised by Members are all related to LAU Siu-kai, I would agree with them completely. However, my target is only LAU Siu-kai. Why am I not against the organization itself? I have already given my reasons and I will not repeat. Chairman, it is because I see the need for such an organization.

Moreover, I must say that concerning the matter under discussion today, we should really target the individual persons. Somebody has made a mistake and hence, I have to target that person. For this reason, his salary should be deducted. However, we are now talking about targeting the organization. Even if we know that civil servants would not be dismissed, we are talking about penalty here. If certain penalty is imposed because the responsible person is thought to have neglected his duties or done something wrong, the motion now is tantamount to punishing his wife and servants. As LAU Siu-kai is the head of this department and a non-civil servant under the appointment system, he must bear responsibility for all the problems in this organization. In other words, regarding the Financial Secretary's budget or the policy address The Financial Secretary decides for himself what to say in his speech. Although he has many advisers to give him advice, he chooses the things he wants to talk about. Therefore, if there is anything wrong or improper in the Financial Secretary's budgets, the Financial Secretary should be responsible. If there is anything wrong or improper in the policy addresses, the Chief Executive should be responsible. I do not agree that if the proposal on transport subsidy is unsatisfactory, it must be the Chief Executive's mistake. That is it, there is no need to ask further questions on the matter or question the Secretary. Questions about transport subsidy must be directed to the Secretary because he is the Director of Bureau responsible for this policy. The Financial Secretary is responsible for the budgets and the Chief Executive for the policy addresses. That is the logic. I think this logic is perfectly sensible.

Chairman, just now, I have already explained why is it necessary to have this organization, and I will not repeat. Mr WONG Yuk-man may not have listened to my words or the whole speech. All in all, I maintain the view that

civil servants working in the department headed by LAU Siu-kai should not be punished regardless of the mistakes or misconduct committed by this organization or its officer-in-charge because I think all these have nothing to do with the civil servants. Thank you, Chairman.

CHAIRMAN (in Cantonese): Just now, I have asked clearly whether other Members would like to speak before inviting the public officer to speak. After the public officer has spoken, I then invited the Member who proposed the amendment to speak in reply. Of course, for this debate, there is no rule prohibiting other Members to speak after the Member who proposed the amendment has spoken in reply. But for the purpose of effective use of the meeting time of this Council for our debate, I hope Members can avoid badgering.

(Mr Albert CHAN raised his hand in indication)

CHAIRMAN (in Cantonese): Mr Albert CHAN, please be concise.

MR ALBERT CHAN (in Cantonese): Chairman, thanks for allowing me to speak. One of the reasons for my pressing the button to speak is that I consider it imperative to refute the speech just made by Mr Frederick FUNG. He talked about people and practical issues, as well as the deletion of the relevant expenditure being a punishment to the civil servants. I think these two points are grossly erroneous, particularly the second point about punishing the civil servants.

Chairman, I think you will also understand that all along, many government departments have undergone restructuring, such as the establishment of the Kowloon-Canton Railway Corporation into a statutory body or the restructuring of many other departments. These have necessarily involved the transfer of many civil servants. Hence, the restructuring or abolition of a department is not a punishment to the civil servants as they are only affected by changes in manpower deployment as a result of institutional changes.

People Power proposes to delete the funding allocation under the Budget for the purpose of abolishing the entire Central Policy Unit (CPU) because the CPU under LAU Siu-kai's leadership has brought shame to the Government. On the one hand, LAU Siu-kai himself has made mistakes repeatedly with disastrous consequences; and on the other hand, the performance and operation of the entire CPU in recent years have fallen short of public expectation. If Mr Frederick FUNG has left the Chamber. I am not sure whether it is because he was a student of LAU Siu-kai — I recall that he might have been taught by LAU Siu-kai — that he is somewhat emotionally attached. If the CPU was a private-sector company and frequent mistakes were made by its sales or marketing department to the effect that the company was facing substantial financial losses, should the person in charge of this company or the Board not dismiss all the staff or abolish the entire department?

Regarding the CPU, we have been criticizing it all these years for the severe lack of transparency in its operation. As early as 2008, Dr Margaret NG and I raised questions during the budget debate as to whether certain reports of the CPU could be released or made available for public inspection. The answer was "no" categorically; even some outdated reports could not be made available for inspection. It was 2008 then, and our criticism was that these studies were conducted by public money, the taxpayers' money. If the authorities had refused to release the relevant reports because the studies were ongoing and the findings were restricted for internal use, I could barely accept that. But could these reports be released after six months or one year? The answer was still "no"! How come both the taxpayers and the Legislative Council have no right to access to these reports of consultancy studies conducted by the CPU over the years using public money? These are public assets, and not the assets of LAU Siu-kai or personal property of Henry TANG. What should these reports be kept confidential? Many of these reports are research and analysis on different policies, and some are consultancy studies conducted by academics commissioned by the CPU. Why can we not obtain these reports as historical papers or references? Why do we keep on paying the bill, yet know nothing about these reports (which could be quite lousy for all I know)? These reports might be very sloppy, yet we hardly know anything. These reports might have misled the Government so that mistakes were made, yet we hardly know anything. Isn't that ridiculous to the extreme?

Then, there is the question about the advice tendered by the CPU to the Government. Let me continue with the example I just quoted. There is this department in a company responsible for conducting researches and providing advice to the Board. But the advice it provides to the Board is always wrong, bringing shame to the Board constantly. If this happens in a private company, the company will be suffering continuous losses. But for the CPU, this problem has been going on for eight years, yet the Government has treated it as if nothing has happened — no action has been taken at all and the staff members can continue to receive high salaries and attractive benefits, prepare reports that are constantly wrong, provide advice that is constantly wrong. The situation is so deplorable that it is ridiculous to the extreme.

This proposed course of action may be somewhat hasty. All of a sudden, the entire CPU will be abolished. However, if we look back at its actual development or performance over the years, we can see that to a certain extent, LAU Siu-kai is really not appropriate for the job. He might be suitable for undertaking researches, but it has been proven repeatedly that researches undertaken by the CPU were erroneous. I do not know if there is any change in the operation of the CPU in recent years, but according to past tradition or my understanding gained previously, particularly during the British-Hong Kong era when I had more communication with the CPU, it had a certain role to play in the major policies of the Government, particularly the policy addresses and the budgets. Regarding some major policy proposals, the CPU might conduct a series of related researches. Some researches might be conducted on request of the concerned departments, and some on the CPU's own initiative so that recommendations could be made to officers responsible for the relevant policies. If accepted, the policies recommended by the CPU would be implemented by these officers. However, in recent years, what is the relationship between the CPU and officers responsible for formulating major policies in the Government, such as the "dangling" Chief Secretary for Administration and the Office of the Chief Executive? It is a complete mystery.

CHAIRMAN (in Cantonese): Mr CHAN, if you are responding to the speech made by Mr Frederick FUNG, you seem to have said quite a lot already.

MR ALBERT CHAN (in Cantonese): Sorry, Chairman, as he just mentioned people and practical issues, as well as the deduction of LAU Siu-kai's salary, I must explain to him that people and issues invariably go hand in hand. In fact, the performance of the people is extremely important. I just want to tell him that the performance of certain people is indeed deplorable. As a result of such deplorable performance, he has brought shame to the Government in undertaking his work.

Chairman, let me conclude by simply saying that considering the many counts of poor performance or track record in the past, the questions I raised just now are already enough to support the view that the CPU should be disbanded as soon as possible.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Chief Secretary for Administration, do you wish to speak again?

(The Chief Secretary for Administration shook his head to indicate that he did not wish to speak again)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, do you wish to speak again?

(Mr WONG Yuk-man shook his head to indicate that he did not wish to speak again)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr WONG Yuk-man be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

CHAIRMAN (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted against the amendment.

Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG

Sing-chi, Mr Alan LEONG, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 20 were present, three were in favour of the amendment, 16 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MR ALAN LEONG (in Cantonese): Chairman, I move that head 142 be reduced by \$302,500 in respect of subhead 000. As I understand, this amount is equivalent to one month's salary of the Financial Secretary.

Why do we propose this amendment? That is because the Financial Secretary has really accomplished an immeasurable feat. When financial officers around the world are racking their brains to find ways to make more money, Hong Kong sits on a hefty fiscal reserve of \$71.3 billion for last financial year alone. With such a large amount of financial resources available, every citizen in Hong Kong should be overjoyed and welcome the Budget. But after its announcement, we hear nothing but grievances and criticisms.

Talking about the immeasurable feat accomplished by the Financial Secretary, I think we must go back in time when consultation on the Budget began. I still remember vividly that at a meeting with the Civic Party during the consultation on the Budget, the Financial Secretary had clearly indicated that he

would not "give out candies" this year. The Civic Party was thrilled to hear such a commitment because this was in line with our established stance that we should embark on longer-term development when substantial fiscal reserves are available. It is our wish that with such development, say in the areas of welfare planning, resource allocation on education and support for public healthcare, the people of Hong Kong can feel more hopeful about overcoming the livelihood problems they currently face. This also represents a commitment to the sustainable development of Hong Kong.

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

However, when the Financial Secretary announced his Budget on 23 February, we were really taken aback. I think the Deputy Chairman will also recall that he proposed to earmark \$24 billion for injecting into the Mandatory Provident Fund (MPF) scheme. Each MPF scheme member will receive \$6,000, and the money can only be withdrawn at the age of 65. Of course, the Financial Secretary had also proposed a basket of measures to "give out candies". This stance is diametrically different from his original stance during the extensive consultation conducted at the end of last year, including his consultation with various political parties and groupings. He had also given no explanation about the reason for this 180-degree turn.

However, Deputy Chairman, this sharp U-turn has yet to finish. After the Budget was announced on the 23rd, there was public uproar in the community because many people considered that even if the Government was to "give out candies", it should not adopt such a strange measure. For young people aged 19 or 20 years who just started working since they were 19, they must wait 45 or 46 years before they can get the money. Of course, the Financial Secretary has also forgotten that many people do not have an MPF account. The working and non-working population taken together, 40% of the people of Hong Kong do not have MPF accounts. The Financial Secretary may have forgotten this point.

Having created all these roaring reactions, he then made another sharp U-turn within a short span of three days, turning a surplus budget into a deficit budget and completely overturning the principles and concepts about prudent

financial management previously held. Because of this second sharp U-turn, we are even more doubtful about whether the Financial Secretary does have any ideas of his own. Does he have a set of strategies for governing Hong Kong? Does he indeed have a blueprint? Or is he merely acting according to popular will? Did he make this sharp U-turn right away when he found out that the people favoured not the injection of money into MPF accounts, but the handing out of instant cash into their pockets? Where has he left the principle of prudent financial management which he has always maintained?

More troubling is that since his proposal to hand out \$6,000 cash, he has yet to give us any details even right up to yesterday when he came to the Legislative Council to propose the Government's amendments on the Budget. While he has yet to give us any details, this proposal has already ripped the society of Hong Kong apart. This rift is of course created by the fact that some people are entitled to the cash payment while some are not. It is really some amazing feat to "hand out cash" with such an effect. Hence, this is my first reason for supporting the deduction of his salary for one month, namely this immeasurable quality of his. His action is really gravely disappointing to the people of Hong Kong, and we have lost confidence in him. Why do I say so? In my earlier speech, I have also mentioned that the actions of the Financial Secretary, that is, the two sharp U-turns he took without proper explanation, have sabotaged the systems of Hong Kong. Of course, there are views in the community that after this incident, the Government's budgets may become merely a consultation document. The Financial Secretary can make such significant changes to the budget after its announcement so that a surplus budget is turned into a deficit budget.

Earlier, I have described the situation by the expression of "collapse of traditional ethics". When we discussed the proposal of giving out \$6,000 in cash previously, even Honourable colleagues who supported the amendment said that this should be a one-off arrangement never to be repeated; suffice to err once, but never again. I am afraid that this would not be so. If one say this arrangement is intended to "leave wealth with the people" — it is the saying used by the Financial Secretary this time — and "handing out money" is but a means and a channel or even a policy, how can the Government refuse the call to "hand out money" again next year if there is likewise surplus? Therefore, I am afraid that this sincere and earnest hope for the Financial Secretary "not to repeat the same thing again" will fail to materialize. "The collapse of traditional ethnics" is

hence the second reason why we should support deducting his salary for one month today because he has ruined the entire system.

In support of my amendment, I put forth a third reason for this Council to consider, namely the capricious remarks of the Financial Secretary. Given that he has made contradictory remarks without any plausible explanation, should we be worrying that he no longer deserves our trust? I want to recap in particular certain remarks made by the Financial Secretary after the announcement of the Budget on the 23rd so that we can all recall what he had said. On the same day and next day of the announcement of the Budget when faced with criticisms on the Budget and calls for him to revise its proposals, he responded by saying that, "The Budget is made with careful thought so as to balance various aspects. I see no need to change anything." He also said that, "The Budget has no room for fine-tuning" and "the wealth of the Government is also the wealth of the people; there is no need to change the Budget."

We still remember vividly his answer about the price of a dish of rice with garoupa and corn, as well as the condescending and elitist manner of his reply, just like a reigning monarch. He had said previously in this Council, especially at the meeting of the Finance Committee, that he did not know the price of a dish of rice with garoupa and corn because he neither liked corn nor garoupa. It is blatantly clear why he is so detached from public opinion and has so many blind spots. Of course, this has yet to illustrate his lack of credibility. Why? He had only met twice with 30-odd Members from the pro-establishment camp before making the announcement of "cash handout". By handing out cash, he has turned a surplus budget into a deficit budget. This is such a drastic change. Also, what should we make of his recent remarks that are still so vivid in our minds — for example, his self assertions that the Budget was made with careful thought, there was no need for change, it was difficult to fine-tune it, and so on? How should we interpret these remarks when put together with the bold words he used when announcing the decision to "hand out money"? It is why I just said that after hearing his words, we consider him lacking in credibility.

Moreover, I must point out that the Financial Secretary and the Chief Executive, Mr Donald TSANG, belong to the same team. Let us review some of the social data when Mr Donald TSANG campaigned for the office of the Chief Executive four years ago and see how they compare with the current situation, such as poverty population. According to a survey conducted by the Hong Kong Council of Social Service (HKCSS), the number of people living in poverty has

increased by 40 000 when compared with 2007. There are also press reports that according to a survey conducted by the HKCSS, about 7 000-odd or nearly 8 000 elders on the residential care waiting list have died in the past four years before successful allocation. This is what happened since Mr Donald TSANG campaigned for the office of the Chief Executive. What has the Financial Secretary proposed in his budgets to realize the election pledges of the Chief Executive? If this team has utterly failed to serve Hong Kong and properly deal with the problems we face, it is not improper to deduct his salary for one month. His actions so far demonstrate neither vision nor commitment, and we have been saying that he has acted according to the mentality of a caretaker government. Clearly, this is a "lame duck" government. We have serious doubts about his ability of governance, or whether he has any will of governance at all. Under the circumstances, we must deduct his salary for one month so as to caution him. I think there is nothing inappropriate about the proposal.

Deputy Chairman, I of course understand that this amendment is likely to meet with ill fate today. However, the Civic Party wants to caution the Government that it should not feel complacent about this amendment being vetoed or defeated because of the support of Members from the pro-establishment camp. On the contrary, I think the Government should not under-estimate the dissatisfaction of the people. The remaining 14 months or so is the last chance for the Chief Executive, Donald TSANG, and his Government to salvage their reputation. I also hope that the Government can sense the urgency of the people and make good use of the fiscal reserves to improve livelihood and respond pragmatically to the several demands of Members from the pan-democratic camp. I so submit.

Mr Alan LEONG moved the following motion:

"RESOLVED that head 142 be reduced by \$302,500 in respect of subhead 000."

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy Chairman, the speech just made by Mr Alan LEONG reflected certain views and criticisms on the Budget. In order to save time, I will not repeat those views and criticisms because the Government has already clearly stated its stand on the Budget.

When responding to the amendment proposed by Mr CHEUNG Kwok-che on the Appropriation Bill 2011 on behalf of the Administration earlier, I have pointed out that it is neither an appropriate nor reasonable course of action for Honourable Members to propose amendments during the examination of the Appropriation Bill in an attempt to deduct the salary of government officials. The Administration opposes to this amendment.

Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): Mr Alan LEONG, do you wish to speak again?

(Mr Alan LEONG shook his head to indicate that he did not wish to speak again)

DEPUTY CHAIRMAN (in Cantonese): If no Member wishes to speak, I now put the question to you and that is: That the amendment moved by Mr Alan LEONG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr WONG Ting-kwong rose to claim a division.

DEPUTY CHAIRMAN (in Cantonese): Mr WONG Ting-kwong has claimed a division. The division bell will ring for three minutes.

(During the ringing of the division bell, THE CHAIRMAN resumed the Chair)

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted against the amendment.

Mr Paul CHAN abstained.

Geographical Constituencies:

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

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 20 were present, three were in favour of the amendment, 16 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, 13 were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

CHAIRMAN (in Cantonese): Mr CHEUNG Man-kwong, you may now move your amendment.

MR CHEUNG MAN-KWONG (in Cantonese): Chairman, I move that head 142 be reduced by \$241,666, that is, an amount equivalent to one month's salary of Prof LAU Siu-kai, the Head of the Central Policy Unit (CPU), in respect of subhead 000.

This salary deduction is punitive because the CPU is funded by public money. However, the CPU has never made public the opinion polls it undertook both previously and recently. It has now become an exclusive political tool of the Chief Executive and senior officials.

The announcement of this year's Budget has created intense dissatisfaction among the people. On the one hand, they are dissatisfied that the Government has not made good use of the huge fiscal reserve of \$600 billion and nearly \$100 billion of surplus to resolve the deep-rooted social conflicts in Hong Kong, including those in the areas of education, healthcare, housing, welfare, poverty alleviation, retirement protection, and so on. On the other hand, the people are dissatisfied that the Government has proposed to inject \$6,000 into each

Mandatory Provident Fund (MPF) account. Public outcry soared overnight and the Government was stuck in a governance crisis.

At this juncture, LAU Siu-kai (who is also a Member of the National Committee of the Chinese People's Political Consultative Committee) told the media when attending a meeting in Beijing that, "The recent signs of public dissatisfaction with government officials and the Government show that the relationship between the Government and the people has reached a critical point. The Government must pay more attention to public opinions". As LAU Siu-kai pointed out, the people were dissatisfied over a wide range of matters such as the wealth gap, the persistently high level of property prices and the well-being of the middle class being ignored. The people's fury could easily be inflamed by individual incidents and escalated to the level of mass dissatisfaction. He thus suggested that the people and the Government should come together to review the role of the Hong Kong Government.

Regarding LAU Siu-kai's "critical point" remark, the people are of course interested to know whether LAU Siu-kai has conducted any survey, what is the basis of his remark and what is his intention of sounding the alarm through the distance in Beijing. Is it an alarm to the Hong Kong Government or the people? Was he merely making a personal observation or showing off his unique point of view to the Central Authorities? Nonetheless, having made such a remark, LAU Siu-kai later denied using the expression "critical point". His capricious explanation was that the Hong Kong Government "is now at a stage where old established practices are interacting with various new demands". He reiterated that the Government had to conduct internal studies so as to formulate a set of guiding principles of governance that adapted to the new political situation.

The capricious image of LAU Siu-kai is constantly played back in the media, without any room for denial. Because of his acts of avoidance and denial after the incident, LAU Siu-kai has left with neither integrity nor credibility. If any survey or study has been conducted to substantiate such a major political observation as the "critical point" remark, the relevant findings should be released for public information. However, if it was merely empty talk unsubstantiated by any surveys, he had acted carelessly and it was inappropriate in his capacity as the Head of the CPU.

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

One trouble follows another. The CPU led by LAU Siu-kai was involved in a leak about undisclosed opinion polls it conducted. According to information, the CPU had commissioned the Centre for Communication Research of The Chinese University of Hong Kong to conduct an opinion poll on whether John TSANG should resign. After the incident was first reported in the media, the Deputy Head of the CPU, Robin IP, had made no denial when attending a meeting of the Legislative Council. He merely said that opinion polls on various political, economical and social issues of concern were often conducted by the CPU. Citing that the findings would only be used for internal reference, he refused to make public any of such findings.

Deputy Chairman, this spate of incidents surrounding LAU Siu-kai only serves to highlight the special quality of the CPU. Many a times, it is just a war room used by senior officials to manipulate public opinion. If the surveyed public opinion is favourable, the same would be made public; otherwise, it would be kept confidential. Even when a slip of the tongue was made about public outcry reaching a critical point, he could still deny everything publicly. Such blatant manipulation has turned public opinion into a tool of mental game. Such practice and style of manipulating public opinion should be penalized.

Therefore, the Democratic Party demands that the CPU should honestly disclose, on a monthly basis, the themes, contents and findings of opinion polls it conducts. Such surveys conducted with public money are related to the public. It is only natural and reasonable that such surveys should be transparent. Considering his denial of giving the leak and his empty talk, LAU Siu-kai of the CPU should be penalized from both the angles of credibility and transparency. The deduction of one-month salary can ensure that LAU Siu-kai would learn his lesson well and the CPU would carefully consider public views and perception on its work.

Deputy Chairman, I so submit.

Mr CHEUNG Man-kwong moved the following motion:

"RESOLVED that head 142 be reduced by \$241,666 in respect of subhead 000."

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy Chairman, regarding the work of the CPU, the Government already has the opportunity to respond just now when Mr WONG Yuk-man proposed his amendment. Hence, for the sake of saving time, I will not say anything more. Separately, when responding to the amendment proposed by Mr CHEUNG Kwok-che on behalf of the Government, I have pointed out that it is neither an appropriate nor reasonable course of action for Honourable Members to propose amendments during the examination of the Appropriation Bill 2011 in an attempt to deduct the salary of relevant officials. Deputy Chairman, the Administration opposes to this amendment.

DEPUTY CHAIRMAN (in Cantonese): Mr CHEUNG Man-kwong, do you wish to speak again?

MR CHEUNG MAN-KWONG (in Cantonese): Deputy Chairman, I need not speak again because heated discussion has already been held on the motion. And the views I expressed represent those of the Democratic Party.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr CHEUNG Man-kwong be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr WONG Ting-kwong rose to claim a division.

DEPUTY CHAIRMAN (in Cantonese): Mr WONG Ting-kwong has claimed a division. The division bell will ring for three minutes.

(During the ringing of the division bell, THE CHAIRMAN resumed the Chair)

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming and Dr PAN Pey-chyou voted against the amendment.

Geographical Constituencies:

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

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 18 were present, three were in favour of the amendment and 15 against it; while among the Members returned by geographical constituencies through direct elections, 22 were present, 13 were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the reduced sum for head 142 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(No hands raised)

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

(Members raised their hands)

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

CLERK (in Cantonese): Head 144.

CHAIRMAN (in Cantonese): Mr Albert CHAN has given notice to move two amendments to reduce head 144 in respect of subhead 000 by different amounts.

After Mr Albert CHAN's amendment to reduce head 138 was vetoed earlier, he has withdrawn his second amendment under this head. Moreover, I have received written notice by Mr Albert CHAN that as he had made arrangements to leave town, he decided to withdraw his first amendment. At the same time, he indicated his wish that the same amendment be proposed by Mr WONG Yuk-man. I am prepared to allow the request made by Mr WONG Yuk-man for waiving the relevant notice period requirement. However, as Mr WONG Yuk-man is not in the Chamber now, the two amendments are deemed to have been withdrawn.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the sum for head 144 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Head 152.

CHAIRMAN (in Cantonese): Similarly, although Mr Albert CHAN has given notice to move an amendment under this head, he has withdrawn this amendment because his earlier amendment was vetoed.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the sum for head 152 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Head 158.

CHAIRMAN (in Cantonese): Mr Albert CHAN has also withdrawn the amendment he intends to move under this head. I now call upon Mr LEE Wing-tat to speak and move his amendment.

MR LEE WING-TAT (in Cantonese): Chairman, I move the motion as printed on the Agenda to deduct one month salary of the Secretary for Transport and Housing. The amendment seeks to express our opinion on the unsatisfactory performance of the Secretary for Transport and Housing in housing affairs.

Chairman, regarding the situation of the property market in Hong Kong, land supply and the Home Ownership Scheme (HOS), there has been much discussion in this Chamber. First, I have to respond to the remark of the Financial Secretary yesterday on the announcement of an auction list or tender list in each of the four quarters this year. I welcome this arrangement. Over the years, the Democratic Party has all along held fast to this position, for we consider that the operation of the Application List system has already failed. This is reflected in the situation in the past five years, for even in the best year, only about 15% of the sites in the Application List had been triggered for sale, and in the worst year, only one of the sites, about 2%, had been triggered for sale. I would say that the Application List system is no longer functioning. Certainly, some developers say that the price of land in the Application List is too expensive. However, in my view and as shown by the tender record of sites triggered for sale, nearly all the sites have been tendered at prices higher than the reserve prices of a substantial percentage, even to the extent ranging from 100% to 200%.

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

Deputy Chairman, as I said, we welcome this change from the Government. Certainly, the Government will not admit that the Application List system is a failure. Today, it is pointed out in most of the newspapers that the Application List exists only in name. At present, the government-initiated land auction or tender arrangement is adopted as the principal channel for land supply, and the Application List is put on a secondary position, or even as an dispensable system. I support this point of view. However, as stated in the commentary I mentioned yesterday, if the supply of land and housing will only provide 26 000 flats, as mentioned yesterday, it is an extremely small number. Deputy Chairman, you may recall that the Financial Secretary has announced in the Budget that he hoped there will be 35 000 to 40 000 flats provided this year. At that time, I already said that this was an impracticable target, and I would resign

if this could be achieved. Later, he said that I did not have to resign, for he definitely could not achieve that target. After studying all the data, I know it is impossible. First, the Government has to sell all the sites in the Application List, as well as the sites owned by the MTR Corporation Limited on top of the stations, and the many land leases of estate developers have to be converted. Only by adding the number of flats provided on these sites will the Government be able to provide 35 000 flats. Deputy Chairman, the supply of only 17 000 to 18 000 flats is truly under the control of the Government, which can be built on sites for government-initiated sale in the Application List. By dividing the 18 000 flats into four quarters, around 4 000 flats will be supplied in each quarter. Hence, despite this small step taken by the Government, it does not mean that there will be an adequate supply of land or flats. We must look at the situation in the second, third and fourth quarters and see whether the Government will continue increasing land supply remarkably.

Surely, I agree with certain analyses that despite the sale of sites at present, the forecast and atmosphere of the entire market will not be changed in a short while. People still have many doubts whether the Government is sincere in providing adequate sites in a continuous and steady manner. Hence, I said earlier that there must be steady and clear housing and land supply policy, not only for this year but also for next year and the year after next. If the Government considers that 20 000 flats should be provided each year, it should put sites up for auction sufficient for the construction of 20 000 flats. Even if those so-called speculators or investors consider the Government lacks the determination this year, after some time, I believe they will be confident that the Government will do so.

Deputy Chairman, I would like to raise another issue, which is about the HOS. I get a stronger impression that the refusal of the Government to resume the HOS will become one of the subjects most worthy of public attention in the history of Hong Kong. Why will so many people inside the Legislative Council, including members from various political parties and groupings, support the resumption of the HOS? They include — I must give their names — Mr Abraham SHEK supports the proposal even though he is elected to this Council as the representative of The Real Estate Developers Association, and individual estate developers have given their support to the proposal. In fact, I cannot find any reasons for the Government to oppose the resumption of the HOS. I once wondered whether Donald TSANG had made any promise to individual estate

developers when he stood for the Chief Executive election. He seems to have denied this. Some people think that he worries the construction of HOS flats will lead to a plunge in the property market. However, I do not think the construction of 5 000 HOS flats will in anyway depress the property market. I think the two are unrelated.

If there is any fluctuation or change in the property market, it must be caused by international or regional economic events. In 1998 and 1999, some people said that the slump in the property market was caused by HOS flats. They must be kidding! At that time, HOS flats were not found in Taiwan, Thailand or Indonesia, but the property markets in those places also dropped. It was totally irrelevant. Due to the Asian financial crisis, all the property markets in the Asian region dropped by 30% to 40% at that time. But the case in Hong Kong was more serious, where the market slumped by 40% to 50%. So, do not put all the blame on HOS flats. Nonetheless, I really cannot understand why Donald TSANG refuses to construct HOS flats. I am really at a total loss. I would like to tell the public: Work hard! We should continue to express this view to the Government and exert pressure on the Government, so that it knows it will lose the support of the public if it fails to address the issue properly.

Another issue about the HOS that I would like to discuss is the improved version or the enhanced version of "My Home Purchase Plan" (MHP Plan) proposed by Members of the Legislative Council from the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), which I heard recently. Actually, since their proposal is not put forth in writing, I do not know much about the details. I only learn about the brief outline of the proposal from their speeches and report of newspapers. They mean to put forth an option of "rent-or-buy". I do not have strong views about this proposal, for it only offers an additional option to the public. However, first, I think that the major problem with the MHP Plan is not about "rent-or-buy" but the limited number of flats provided, which is only 5 000 flats. Even if all the flats can be provided within a year, there will only be 5 000 flats. This will only accounts for about 20% of the total supply of flats, provided that all 5 000 flats are supplied within a year. If 1 000 flats are provided, an additional supply of only 3% to 5% will be provided, which is an extremely small number. I have made a calculation about this. If I divide the 1 000 flats to be offered every year by the number of eligible applicants of the MHP Plan, as provided by the Hong Kong Housing Authority (HA), the chance for winning the lottery, that is being allocated a quota, is less

than 1%, similar to the chance of winning the Mark Six. Hence, only 1% of applicants will be happy, whereas the remaining 99% will be unhappy. I do not understand why more flats cannot be provided. This is one point. I think this is an issue of great importance.

Second, the Government says that under the MHP Plan, part of the rent paid will be converted into part of the instalment payment for the flat. If the Government is sincere in facilitating the public to purchase their first flat, it should be more generous by allowing home purchasers to convert their rent into the down-payment for the flat. In that case, I think the applicant will at least be able to save around \$500,000 to \$600,000 over the five years, which will at least be sufficient for the down-payment. Even if it is insufficient, the applicant will only need another \$200,000 or \$300,000 to meet the required amount. I think this is instead an important point.

Third, Mr Abraham SHEK and I agree that it is difficult to decide "when the price of flats should be set". The Government says that it is hard to persuade the Hong Kong Housing Society (HS) to set the price in the first year. Sometimes, I query why the Government will be so obedient. When the Legislative Council asks the Government to set the price, it disobeys. But when the HS says that it can hardly set the price, the Government takes the views of the HS and compromises. I do not understand. The practice of the Government perplexes me. Though I have known the Government for so many years, I fail to reckon its approach. Actually, the HS must negotiate with the Government over many issues. Even if the HS does not have to obey the Government, it has to co-operate with the Government on many development projects. For instance, in the construction of more flats as residence for the elderly in future and other development projects, the HS has to apply to the Government for sites and discuss the locations of the development. I do not think it is a very difficult task. In my view, it is more desirable that the prices can be at the earliest possible time, so as to set the mind of the persons concerned at ease.

However, Deputy Chairman, I think the MHP Plan cannot replace the HOS. In my view, with the introduction of the HOS in 1977 and its development up to date, significant contribution has been made by the HOS in history. If I am asked whether the scheme has inadequacies and whether there is room for improvement, I will agree that there is room for improvement. The Secretary is not at the meeting tonight. She often says, "The problem with the HOS is that people who have purchased the flats do not want to put their flats on

sale in the market again." This is true. Among the existing 300 000 to 400 000 HOS flats, only 20% of the flats are trading freely in the market.

I recall that at the time of Dominic WONG, I had put forth a bold proposal. My proposal received good support from rightist economists, and they had been more ambitious than I. In respect of regrant premium, if I had bought a HOS flat in the 1980s, which was priced at \$300,000 to \$400,000, it may worth over a million or \$2 millions now. If I have to pay the regrant premium, how much do I have to pay? I need to pay \$500,000 to \$600,000 or \$600,000 to \$700,000. I will not get much profit after selling the flat. I will say, "In fact, the 300 000 to 400 000 owners of HOS flats are now living in properties owned by the Government, for 40% to 50% of their assets are owned by the Government. In other words, they are living in a very expensive property, where half of the asset is owned by the Government. However, these assets will never be released, for the owner is required to pay a large amount of regrant premium."

Certainly, people in support of economic liberalism will say, "Just waive their regrant premium" or "Allow them to pay only a small amount for the regrant premium". I have read the articles written by Richard WONG and Francis T LUI. They proposed an even lower price, but I dare not adopt their proposals. During the time of Dominic WONG and Denise YUE, the incumbent Secretary for the Treasury, I proposed that if owners paid the regrant premium at an earlier time, the owners would receive a discount. This proposal would give owners of HOS flats the incentive to pay regrant premium earlier, so that the assets would not be locked to the owners.

Surely, this is one of the reasons for the low mobility of flats. Another reason is that when property prices are on the high side, where can owners of HOS flats live after selling their HOS flats, and I often debate with Secretary Eva CHENG about this. Of course, I do not deny that some owners of HOS flats may have properties other than their HOS flats, but they only account for a very small percentage. Individual owners may be at an old age, and by selling their flats, they will make a profit of several hundred thousand dollars to \$1 million. They may choose to rent a village house of \$4,000 to \$5,000 per month, so that they may spend the remaining \$1 million slowly. If the owner is already at the age of 60 to 70, his living will be much better. Yet, it may not necessarily be a handsome amount.

Therefore, the question is, when property prices in the private market are very high, it will be quite difficult for owners to sell their old flats to buy new ones. It has always been so in the past. We may look at the case of owners of old private buildings. When is the easiest time for them to sell their old flats to buy new ones? It is when property prices are stable and there is substantial increase in their salaries.

I recalled that in the early 1980s when I graduated from the university, the increase in salary of a certain year was startling. I do not remember whether it was a 10% or 15% increase. It should be an increase of 15%. Before that, a 15% increase in salary had never been found in the history of Hong Kong. At that time, increase in property prices was not significant, which was only a few percentage points. Members may recognize that at that time, a university graduate, who was not lavish in spending, would know that he would for sure save enough money for the down-payment for a flat after working for five or six, or seven years. So, I have much sympathy with the young people nowadays, not only the "post-80s", but also young couples. In the case of the "post-80s", I will say that they may still work or hold on for some more time. However, there are people who have already worked for 10 years, where the husband and wife together earn some \$20,000 to \$30,000 in total. If they are asked whether their salaries or the property prices will increase faster in the next five years, they will definitely say that property prices will increase faster than their salaries. Their savings will dwindle despite continual contribution, for their savings will account for a smaller and smaller percentage in the down-payment required. In comparison with the time we graduated from university in the 1980s, where we expected to save enough money for a down-payment by working for five to six years, it is a very different scenario now. Hence, I think it is very important to maintain the stability of property prices, or even keep the prices at a certain level for some time, pending a more rapid increase in salary, so that the public will be more confident.

Certainly, I think we can hardly expect the Government to take any action at present. I only hope that the HOS will provide one more option for people who cannot afford private housing, so as to realize the objective of so-called "home ownership". I hope the Government will know that if the housing issue is not properly addressed, the Government can hardly win the support of the public. When we visit the local communities, this is one of the policy areas of the Government which the public launch severe criticisms. In my view, if the

Government does not change its stance, I see no chance that the public will place greater trust and support in the Government. Thank you, Deputy Chairman.

Mr LEE Wing-tat moved the following motion:

"RESOLVED that head 158 be reduced by \$281,666 in respect of subhead 000."

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

MR ALBERT CHAN (in Cantonese): Deputy Chairman, I have some questions concerning the procedures.

First, I have to apologize to the Deputy Chairman for being late just now, which led the Chairman mistook that I would withdraw my amendment. I had to deal with some issues earlier, but when I heard the bell, I ran back to the Chamber immediately. Regarding my amendment to cut the provision for the Secretary for Constitutional and Mainland Affairs, will the Deputy Chairman

DEPUTY CHAIRMAN (in Cantonese): Mr CHAN, please be seated first. Your amendment is processed by the Chairman Jasper TSANG earlier. When it was the time for you to put forth your amendment, Chairman Jasper TSANG will resume the Chair now.

(THE CHAIRMAN resumed the Chair)

CHAIRMAN (in Cantonese): As I told Members earlier, I received a written notice from Mr Albert CHAN earlier today and learnt that Mr Albert CHAN would leave Hong Kong after ten o'clock tonight. He said in the notice that if he could not remain in the Chamber to move his amendment, he would withdraw the amendment and hoped that the same amendment would be proposed by Mr WONG Yuk-man. At the same time, I received a written notice from Mr

WONG Yuk-man seeking leave to dispense with the notice requirement to allow him to move the same amendment. As I said earlier, I intend to approve the request of Mr WONG Yuk-man.

The time we spent on debating the two amendments proposed by Mr Alan LEONG and Mr CHEUNG Man-kwong was shorter than expected. When it was the turn for Mr Albert CHAN to move the amendment, he was not in the Chamber, neither was Mr WONG Yuk-man. I have asked colleagues of the Secretariat to ask Mr Albert CHAN and Mr WONG Yuk-man to return to the Chamber. Actually, colleagues of the Secretariat had looked up every place in the Legislative Council Building.

Since Mr Albert CHAN was not in the Chamber at the time, the only way for me to handle this was to let Mr WONG Yuk-man propose the amendment if he was in the Chamber. However, both of them were not in the Chamber at the time. According to the Rules of Procedure, when it is the turn for a certain Member to move a motion but the Member concerned is not in the Chamber, I can only regard the motion as being withdrawn. Actually, we proceeded with the meeting at the time and passed the motion for the sum of the head in question to stand part of the schedule. Hence, we cannot process the said amendment again.

MR ALBERT CHAN (in Cantonese): Chairman, I absolutely understand and respect the ruling of the Chairman. However, when I made the relevant arrangement for withdrawing the amendment or proposing it by other Member on my behalf, I had made it clear that the paper would be submitted in advance, but it would depend on the actual situation on the day whether the paper would be officially submitted to the Chairman. If by seven or eight o'clock at night, it is for sure that I will not be able to propose my amendment before ten o'clock at night, Mr WONG Yuk-man will propose the amendment on my behalf. I have liaised with the Secretariat a number of times today concerning this arrangement.

Earlier, when I received the call from the Secretariat, I ran back to the Chamber as fast as possible. However, when I arrived, Mr LEE Wing-tat had started speaking and the Chairman had handed down this ruling. I absolutely understand that the Chairman has handled the issue according to procedures. However, according to the established practice in the past, Chairman, which I

believe you remember, when the Member proposing the motion was not present, Chairman, you had on a number of occasions adopt the practice of suspending the meeting. Even in the event that the Member was present and the government official was not present, the Chairman had suspended the meeting to wait for the Member to return to the Chamber and then handled the case.

Certainly, the Chairman has already handed down his ruling. I do not know if the present case can be handled with discretion, for there should be enough time today to proceed with my amendment after handling the amendments of Mr LEE Wing-tat and Ms Cyd HO. If the Chairman allows, I am willing to propose my amendment after Ms Cyd HO.

CHAIRMAN (in Cantonese): Mr Albert CHAN said earlier that the decision on whether his request should be processed should depend on the progress of the meeting at around seven o'clock or eight o'clock. I know this point clearly and the Secretariat has told me clearly the request of Mr Albert CHAN. However, at an earlier time for Mr Albert CHAN to move his motion, we had spent some time looking for Mr Albert CHAN and Mr WONG Yuk-man, but in vain.

Mr Albert CHAN requested that his amendment, which deals with the reduction of a sum under head 144, be handled later. Since the amendment had not been moved at the time, the Committee had already passed the motion for the original sum of head 144 to stand part of the schedule. Since this is the resolution of this Council, no more amendment can be made to it, and thus we cannot proceed with the amendment of Mr Albert CHAN any further at the meeting.

MR FREDERICK FUNG (in Cantonese): Chairman, I support the amendment of Mr LEE Wing-tat.

First, I consider that the Secretary for Transport and Housing should be held accountable for housing policies. Surely, the most suitable approach to be adopted for housing policies may vary from person to person. Different Chief Executives may have different visions, and even different Secretaries for Transport and Housing may have varied views on the approach for implementing the policies. However, I think there are several fundamental issues that must be

addressed and cannot be ignored no matter who the Secretary for Transport and Housing or who the Chief Executive is. The Government cannot ignore these issues in reality and introduce a policy that fails to address the issues. What are these issues? Housing is a basic need, the most important one among the needs of clothing, food, accommodation and transport. Housing is the most fundamental need of individuals and families. Hence, in respect of housing, I think the Government must properly address the fundamental needs of the public, so that the public will have a sense of belonging to the Hong Kong Government — Hong Kong. Basically, the Government must enable each and every family — a singleton is also a family — to live in peace and work in contentment.

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

However, more often than not, the SAR Government only regards housing as a tool or an investment product for speculation and trading in the market. It often invokes the so-called governing principle of "big market, small government", telling us that the issue should be left to the market to deal with. However, in reality, how is the existing housing problem in Hong Kong being dealt with in the market? The answer is in the continual increase in property prices in the past year. At the debates at various committees of the legislature, including that of the Panel on Housing and the Legislative Council meeting, I have mentioned the seriousness of the problem by quoting a site at Sham Shui Po as an example. The estate developer has demolished the old buildings and reconstructed a single residential building with no facility at all. What is the meaning of no facility at all? I mean there are no well-decorated lobby, no swimming pool and no club house. However, early last year, around March or April, when the building was put on sale, it was priced at \$9,700 per sq ft. The building is surrounded by many seven-storey tenement buildings with no lifts. In such an old community, where old buildings are demolished to be replaced by new buildings, and the price of which reaches \$9,700 per sq ft. Over the years, Sham Shui Po has been regarded as the community with the lowest income. In general, people who have been living in the district cannot afford to buy or even rent any one of the units of the building. With the selling price of \$9,700 per sq ft, that is, around \$10,000 per sq ft, the price of a unit with a gross floor area of 400 sq ft will be \$4 million, whereas the usable area of a unit with a gross floor

area of 400 sq ft will only be around 300 sq ft. Members may reckon how serious the housing problem is.

Apart from being a commodity for trading, investment and speculation, housing units are surely one of the speculation vehicles for estate developers or the stock markets. I will not blame the market for making housing a tool for speculation. This is the reality of the market. The market is business-oriented and profit-oriented, or even targets at reaping the maximum profit, which is in no way illegal. If it is regarded as immoral, it is a matter of individual value judgment. Moral value is very subjective, and people may have different moral values. However, the Government cannot be subjective. It cannot only talk about "big market", the "big market, small government" principle, proclaiming that the market is above all. Deputy Chairman, the Government has to look after 7 million people. Not only does it have to pave the way for the development of the business sector, it is also obliged to provide a proper platform for people of Hong Kong to have good accommodation and good living. On this deep-seated problem involving structural conflicts, the Government must show its will to help us address and resolve the problem. However, we do not see that the Government has such determination at all. Housing is a two-sided coin. It is a tool for investment and speculation on the one side and the basic need of the public on the other. As members of the public, we only see that housing is regarded as a speculation tool, a tool in the market and an investment tool, but we fail to see that it is the basic need of the public. In my view, the most serious conflict over accommodation lies in the vision of governance of the Chief Executive and the Secretary as well. This is not a conflict with me — though I have different views — the greatest conflict is that the public is waiting for accommodation, demanding accommodation and hoping for an improvement in the quality of accommodation.

Deputy Chairman, I will try to discuss this issue from various aspects. Certainly, the demand and supply of housing is a major factor causing speculation or increases in property prices. However, Members may notice that without the prolonged fighting of various sectors, there will not be a stable supply of land, where the public may expect sites available for the construction of 20 000 flats will be provided every year in future. Despite the supply of sites available for the provision of 20 000 flats, it does not mean that 20 000 flats will be provided for sure, for it is left to estate developers to submit tenders and initiate the sale of land, and their willingness to construct building on certain sites. If they do not

want to construct buildings, the guarantee will become invalid. However, if we read a report in *Ming Pao* half a year ago, we will know that in the past 10 years, the number of transactions of property was not 20 000 flats but around 50 000 flats each year.

Second, if the Government should not intervene in the private market or the speculation and investment activities in the market, how will the housing problem faced by the public be handled simultaneously? If the market is unwilling to do something to address the need of the middle to lower class, I think the only approach is for the Government to identify means to meet the basic needs of the public. Certainly, so far, the most effective way for addressing the basic needs of the public is, in gist, the provision of flats under the Home Ownership Scheme (HOS). In fact, HOS flats are restricted housing subject to restrictions on purchase and sale. Basically, the restrictions imposed involve three major elements. The first element is the restriction on the person involved. For instance, the target client of the sale must be a permanent Hong Kong resident. In the past, HOS flats can only be sold to permanent Hong Kong resident who has resided in Hong Kong for no less than seven years. The second element is the restriction on income, where an income limit is set. The third element is the restriction on the face value. Certainly, the design of buildings may be the fourth restriction, that is, whether it adopts a luxurious design or an average design. Actually, the various elements mentioned may be considered in providing housing to the public.

The construction of HOS flats is one of the examples, whereas the construction of Sandwich Class Housing is another. To carry it further, I may consider including these elements in land auctions. For instance, when a site is put up for auction, the estate developer may be required to sell the flats only to permanent Hong Kong residents having lived in Hong Kong of no less than seven years. In other words, the site is bound by certain restrictions when it is put up for auction in the market, where estate developers and contractors may submit tenders for the site for residential purpose. As for restrictions in other aspects, such as the restrictions on income and area I mentioned earlier, they can be mixed and matched in various ways in land sale. In that case, the prices of newly completed flats will not rocket like existing property prices.

However, the Government has never considered this approach. It only mentions the introduction of "flats with limited floor area" recently. Will the

flat size restriction provides effective guarantee that property prices will not increase beyond the affordability of the general public? This is open to doubt.

In a recent tender of a site in Yuen Long, the per-square-foot price reached \$5,000 to \$6,000, which is only the land cost. Upon the completion of the building in future, the per-square-foot price of the flat may increase to \$8,000 to \$9,000. This is only a site in Yuen Long. I wonder if the Secretary is aware of these problems.

The third issue I would like to raise is about the planning of land for public rental housing (PRH). Recently, we notice that the Government has been emphasizing the annual production of 15 000 PRH flats in average. This production level was adopted three years ago and will be maintained in the next five years. In other words, throughout the period of eight years, the annual total production of PRH flats will be maintained at 15 000. I wonder if the Secretary know that in the 1990s, an average of 35 000 flats were built every year. When Mr TUNG, the first Chief Executive, took office, he proposed building 85 000 flats, and in one of those year, 65 000 public rental flats were produced. However, after 1997, before the announcement of the cessation of the sale of HOS flats in 2003, an average of 25 000 to 30 000 PRH flats were produced every year. Now, the number of PRH flats produced has been decreasing, from 30 000 flats to 25 000 flats, and then from 20 000 flats to 15 000 flats, but the waiting list has never shortened.

Before 1997, there were around 110 000 families on the waiting list. In 2001 and 2002, not long after the financial tsunami, only 100 000 families were on the list. Now, how many families are on the list? There are 130 000 families. In other words, the figures has always been over 100 000 families. The waiting list is quite long. However, the number of PRH flats produced by the authorities is on the contrary decreasing, failing to meet the fundamental needs of public. These families on the waiting list have met the income requirement for applying PRH flats.

Surely, in respect of public housing, there is still one serious problem — the two Directors of Bureaux present are not responsible for housing affairs, they may not necessarily know the existence of the problem. In the past couple of years, as well as the next five years — I guess Members may not believe it when I say so — 65% of PRH will be located in urban areas. Local residents will

surely be happy to hear that, for a majority of public will be able to move into new PRH flats in urban area after a wait of five years. However, why will this be the case? Theoretically, not many sites are available in urban areas. Theoretically, a lot of sites are available in the New Territories. Theoretically, more sites are available in extended urban areas than in urban areas. If so, why will there be more sites in urban area than in the New Territories and extended urban areas? The locations of the flats to be completed this year and in the next five years can reflect whether the Government had developed sites for the construction of PRH flats in the previous five to 10 years. In fact, it is evident that in the past five to 10 years, the Government had not made vigorous effort to develop new sites in extended areas or the New Territories. As a result, the developed sites are concentrated in urban areas at present, and the PRH flats constructed are in urban areas.

Honestly, the construction of PRH flats in urban area will be welcomed by the residents, but this reflects that the Government has failed to work hard enough and properly in planning and site identification. Had the Government acted otherwise, the present situation would not occur. In the development and identification of sites for the construction of PRH flats, complementary projects on roads, water supplies, electricity supply and gas supply have to be carried out. Is this the reason the Government has not made proper planning? Is it because of the limited term of office of the Secretary or the Chief Executive that the Government does not carry out work in this respect, as in the case of the colonial rule where the term of governance was also limited? If not, has the Government been indulged in handling political issues and overlooked livelihood issues? There are a lot of possibilities. However, on the whole, the Secretary should focus on and specialize in this area of work.

Hence, regarding the four areas I mentioned earlier — first, the mindset adopted in governance; second, promotion of home ownership, so that the middle to low income group may purchase their own home to live in peace and work in contentment; third, the insufficient supply of land; fourth, the planning of PRH flats, particularly the failure to include adequate sites in extended urban areas and the New Territories in planning, and the number of flats produced is limited to 15 000 flats — the ultimate responsibilities in various aspects will eventually be shouldered by the Secretary. Under the Accountability System for Principal Officials, accountability means holding Directors of Bureaux accountable. I will definitely hold Secretary Eva CHENG accountable. I will ask her why the

situation would be like that? When the basic need of men is not properly addressed, it will provoke emotions and easily give rise to problems, and it will easily arouse social instability.

Why is Singapore so stable? I believe Members know that — Mr SHEK surely knows that — for 80% of housing in Singapore are rental housing and Housing Development Board flats, and 20% are flats sold in the market. Basically, every citizen in Singapore may own his or her own flat. Among the 80% of housing mentioned, about 70% are purchased flats and only 20% to 30% are rental flats. This is the case in Singapore. Definitely, we do not have to follow the case in Singapore and require the Government to build 80% of the housing. However, I am only referring to a proportion of about 30% of public housing flats and 20% of HOS flats now. Is this a very poor proportion? I think the proportion of 20%, 30% and 50% is not bad. It is not bad when 20% is HOS flats, 30% is public housing and 50% is private housing.

Hence, I think the Government must have such planning concept. If it keeps talking about the "big market, small government" principle, I cannot agree. If the Government disagrees with my approach, will it formulate a new long-term housing strategy? From the 1980s up to date, 30 years have lapsed, but long-term planning had only been introduced twice, and it has been over 10 years now since the latest planning was introduced. Should the Government formulate the third long-term housing strategy, telling us what the Government is thinking about? The Government should consider the proposal and then consult the people of Hong Kong, so that they can express their views. After that, the Government may amend the proposal and formulate the third long-term housing strategy, so that the people of Hong Kong will know their housing need, the responses of the Government, and when the policies of the Government will interface with the demand of the public, coping with and satisfying their demand. Should the Government do that?

Deputy Chairman, basing on the above viewpoints, I in general agree with and support the amendment proposed by Mr LEE Wing-tat to delete a sum equivalent to one month salary of the Secretary.

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

MISS TANYA CHAN (in Cantonese): Accommodation is hard to find, and transportation is expensive. This is the voice of the grassroots, and even the middle-class, in recently years. Secretary Eva CHENG is at the helm of the Transport and Housing Bureau, so I believe she will not be unfamiliar to these mainstream voices of society. However, since Secretary Eva CHENG took office, what has she done to respond to these voices? This year, the property prices spiral upwards, the property market is still buoyant, and rental rockets up, and the general public and small and medium enterprises (SME) have been complaining about these plights.

Housing is a problem, but the transport policy is no better. The traffic flow of the three cross-harbour tunnels is unbalanced and public transport fares increases in succession. As a result, drivers have to endure the traffic congestion every day, and members of the public are further burdened by transport expenses. In the face of these circumstances, as well as today's proposal by Mr LEE to deduct one month salary of Secretary Eva CHENG, I think it is time to take stock of the situation with Secretary Eva CHENG.

Some time ago, the Government had neglected public opinion and failed to handle the rehousing arrangement of Choi Yuen Village properly, where the Guangzhou-Shenzhen-Hong Kong Express Rail Link project was pushed through merely because the authorities had secured enough votes. Actually, at that time, I already considered that Secretary Eva CHENG should be subject to a salary cut. Some of the residents of Choi Yuen Village have located a new site for rebuilding Choi Yuen Village and continued with their country life. The Complaints Division has asked the Secretary to arrange colleagues to visit the new village and the old village, but having waited for two months, a date has not yet been fixed by now. Residents of Choi Yuen Village asked us about this and we followed up with the Complaints Division. The Complaints Division then followed up with the Government, and we continued to follow up with the Government. We have asked about this numerous times, but no result is available till today.

Moreover, the Complains Division has earlier received other cases involving compensation and rehousing. A year has passed, but the residents are still facing many difficulties. Regarding the complaints of the villagers, I hope the Government will really follow up. However, according to our observation, the authorities are processing these cases at a snail's pace.

Deputy Chairman, a transport issue of greatest concern to the public recently is the fare increase of the MTR Corporation Limited (MTRCL) and ferry companies, which is a harbinger of succession fare hikes by bus companies shortly. The public will eventually suffer. In a written question I raised on the Budget concerning ferry services, I asked the Administration of the measures it had adopted to support the operation of ferry services. The Bureau listed a number of supporting measures for ferry service in the reply, which included providing fuel subsidies, and assisting ferry companies to generate non-fare box revenue from pier facilities. However, the recent fare increases of various inner harbour and outlying island routes have brought to light that the supporting measures of the Government have failed to alleviate the pressure for fare increase.

Take the fare of the route connecting Central and Mui Wo in Lantau Island as an example. The single journey fare on a public holiday is almost \$40. Come to think about this, if a family of four goes on a day-trip to Lantau Island, they will have to pay \$200 to \$300 for ferry fares alone. Ferry is virtually the only transportation for residents of outlying islands. Do the authorities want them to take speedboats? When the authorities allow ferry companies to increase their fares continuously, it is actually adding burden to residents of outlying islands incessantly, seriously affecting their livelihood. Why would the Government turn a blind eye to it and take no action?

Another area seriously affected by fare increase is naturally the railway service run by the MTRCL, which is earning a year-on-year revenue of several to tens of billions. The MTRCL claims that it has to "safeguard the interest of shareholders" — a new version is presented recently by adding the need to safeguard the interests of overseas shareholders — and that it has to "respect the fare adjustment mechanism". Yet, it gives no regard to the spiraling inflation and the hardship of the public, insisting to increase its fares from June onwards. The SAR Government is the major shareholder of the MTRCL and Secretary Eva CHENG is a member of the Board of Directors. However, the Government has not exercised its influence as the major shareholder, and Secretary Eva CHENG has not exercised the power of a director, to request the MTRCL to reconsider the decision to increase fares. Do Members think that Secretary Eva CHENG has already done her job?

Actually, in the past, many proposals had been put forth to restrict the increase of MTR fares, such as the setting up of a fare stabilizing fund or using

the dividend received by the Government from the MTRCL to subsidize the MTR expenses incurred by the public. However, the Administration has all along turned a deaf ear to these suggestions. It has paid no attention to these suggestions at all, nor has it made any effort to conduct studies on the suggestions. If suggestions favourable to people's livelihood and do not jeopardize the interest of shareholders are considered unacceptable, may I ask whether the attitude at work of this Director of Bureau under the accountability system is worthy of our support?

Concerning the MTRCL, I cannot but mention the series of breakage of rail tracks occurred some time ago. The breakage of rail tracks does not only cause delay to train services and affect the service quality of the entire railway system, but also threaten the safety of passengers. Worse still, the MTRCL has repeatedly delayed the notification of the incidents, and deliberately or inadvertently described the breakages as cracks. These are not only mistakes of technical nature or in operation, and we think it is a matter of attitude. Given these incidents, we have reasons to believe that the Government has failed to exercise proper supervision, and it is suspected of dereliction of duties. In this connection, we consider it necessary for the Bureau to clarify the case.

Some time ago, the Eastern Harbour Crossing (EHC) proposed a toll increase. The incident had again prompted the public to request the Government to address the problem of unbalanced traffic flow of the three cross-harbour tunnels. Some people even requested the Government to buy back the EHC and the Western Harbour Crossing (WHC). The problem of unbalanced traffic flow of the three tunnels does not arise this year, and we have noticed this situation all along. However, we do not see any proactive response from the Government. In a study conducted by the Government earlier, it is pointed out that before the Central-Wan Chai Bypass is open to traffic, the problem of traffic congestion will persist despite a toll reduction of the WHC. On the other hand, the Government seems to scorn buying back any one of the tunnels. When we visit the districts, an enormous number of people, particularly residents on the Hong Kong Island district, strongly support the Government to buy back at least one tunnel to prevent a continual surge in tunnel tolls.

Members may still recall that the toll increase of the WHC just took effect not long before the EHC proposed a toll increase. I remember that when I urged the public to give their signatures to oppose the toll increase of the WHC, I said

on the microphone that, "Today, the WHC increases its toll, and it will not be long for the EHC to raise its toll." This has become a bygone fact in a blink of an eye.

Definitely, I will also talk about the projects on the West Island Line, South Island Line and the Shatin to Central Link (SCL), which have drawn much attention. These projects have aroused much controversy, particularly on the construction cost of the SCL. In this connection, the Administration should respond to the queries of society properly. It should not presume that it could be indifferent because it has secured enough votes for passing the funding application. Otherwise, Secretary Eva CHENG can in no way avoid the risk of undertaking political accountability. Moreover, many members in society have been striving for the installation of platform screen doors along the East Rail, should the Government respond to these aspirations expeditiously and positively and examine whether arrangement must be made after the completion of the SCL? Society hopes that the Government and the Secretary will respond positively to all these requests, but they have not taken any action so far. This is the actual fact. Mr LEE Wing-tat proposes a one-month salary deduction of the Secretary, and I am afraid this is not a small amount.

Deputy Chairman, after talking about transport issues, I surely want to discuss the housing issues. I believe Members have seen and sensed how high property prices are and how buoyant the speculation in the market is. The Administration has been bragging how the measures introduced can alleviate the spiraling property prices and help the public purchase their homes, but what is the outcome? According to the media, the volume of trading of the 10 indicator housing estates for last weekend again recorded a substantial increase, and transaction prices have bound back to the level prior to the introduction of measures to curb property speculation by the Government. In other words, the heavy dose prescribed by the Government at that time has been absorbed completely by the market within a short period of several months. Does this phenomenon imply that the remedy prescribed by the Government is not the right remedy for the problem? If the fact proves that the housing policies of the Government fail to curtail the increase in property prices, the Secretary, being the officer-in-charge of housing policies, definitely should not shirk the responsibility.

Last week, a group of members from the Young Civics launched a "shell-less snail sleep-in street protest" for three days and two-nights, and I visited them to show my support. The protest was staged in the so-called public area in Cheung Kong Center, which was terribly small. The area is indeed a critical point of the Government and the business sector. We purposely chose that location, for we wanted to accentuate the suspected privatization of public area resulted from "developers' hegemony". The protest intended to oppose "developers' hegemony" and highlighted the plights of the younger generation in finding accommodation and purchasing their home. When the rent of en suite units has surged up to some \$4,000 or above, and when flats below the price of \$2 million for first-time home buyers are almost unavailable on the market, it is difficult for young people to move out and lead an independent life, not to mention purchasing a flat for marriage. Should the Administration just watch this group of young people being dashed the hope of becoming property owners, or their youth being burnt by estate developers? I can hardly bear to see this situation, and I hope the Secretary will not bear to see their suffering. However, does the Secretary have any measures to help this group of young people?

Honestly, many young people have seriously considered My Home Purchase Plan (MHP Plan). Can the MHP Plan help the public in home purchase? Up to date, the details of the MHP Plan have not yet been disclosed, and there is no way to estimate the actual effect of the Plan. On the contrary, the Home Ownership Scheme (HOS) is time-honoured and effective, and its effectiveness is easier to conceive. Since a mainstream consensus has been reached in society, why would Secretary Eva CHENG, an official under the political accountability system, disregard public opinion? I urge the Government to resume the construction of HOS flats immediately to increase the supply of flats, thereby curbing the continuous and rapid increase in property prices. Actually, regarding our proposal for resuming the construction of HOS flats put forth in the Budget, many friends query why we would do so. If Members still remember, the resumption of the construction of HOS flats was first proposed by the Financial Secretary in his Budget speech in the British-Hong Kong era. Hence, the practice we adopt this time is nothing new. It will not handicap the Government, nor is it something that the Financial Secretary can in no way achieve.

After talking about HOS flats, I must mention public housing. We notice that the Government has raised the household income and asset limit for applying

public housing. This is a benevolent measure on the surface, for it allows more people to benefit. But in my view, the Government is being wishy-washy. With the relaxation of the application criteria for public housing, the number of eligible households will definitely increase significantly. According to the information of the Government, after the relaxation of the limit, an additional 20 000 to 30 000 families will be eligible for applying public housing. Since the number of applicants on the waiting lists has increased, will the Government increase the supply of public rental housing flats accordingly? If the supply of public rental housing is tight, will it be possible to meet the three-year pledge in flat allocation? Surely, we will query whether the three-year period is referring to the period between the time applicants start waiting and the first allocation offer, or till a flat is chosen? If, for the sake of meeting the pledge, the Government makes hasty offers to applicants, it is only natural that applicants will not be able to choose the suitable units. To put it bluntly, if the Government often offers some flats with notorious background to applicants, it can easily meet the three-year pledge. If applicants have to wait for four years to move in a public housing flat in reality, those figures are only means of deception, which are thus meaningless.

Finally, I would like to talk about the regulation of the sales of first-hand residential properties. In recent years, the regulation of the sales first-hand residential properties has aroused heated debates in society. The "39 Conduit Road" incident and THE ICON incident well illustrate the need for the Government to tighten the regulation on the sales of first-hand residential properties. Though the Estate Agents Authority (EAA) has introduced new measures recently to regulate the practices on and channels for the sales of first-hand residential properties, those measures are targeted merely at estate agents. As for estate developers, by now, no statutory regulation has been imposed. At present, it all relies on the self-discipline of estate developers. If they follow the guidelines obediently, no legislation is required. Honestly, the authorities are imposing controls on the chickens but not the eagles. It is baffling to the public. Hopefully, Members may remember that in early 2000, the Government had published the White Bill on the Sales Descriptions of Uncompleted Residential Properties Bill, but the White Bill was withdrawn by the Government suddenly afterwards. It was mentioned in the White Bill that if estate developers had made false statements and led purchasers to buy flats, the purchasers might claim compensation from the estate developers, and the estate developers would be liable to criminal liability.

The information provided is of great importance to the public, particularly purchasers of first-hand residential properties. Some people consider that purchasers of first-hand residential properties may be speculators, and query why assistance should be rendered. Even if those purchasers are speculators, they pay for the residential properties they bought, and there is no reason not to assist them. Does it mean that no assistance should be provided to them throughout the life merely because they are speculators? It is impossible.

We think that at this time, the Government should expeditiously It is hoped that the Steering Committee on Regulation of Sale of First-hand Residential Properties by Legislation — Mr LEE Wing-tat is also a member of the Steering Committee — will submit a report as soon as possible. I hope its work will not stop upon the submission of the report, but will expeditiously impose regulation on the sales of first-hand residential properties, as well as on estate agents and estate developers.

Up to this very moment, in respect of housing and transport policies, the performance of Secretary Eva CHENG has seemingly failed to live up to the expectation of the public. By the deduction of one-month salary of Secretary Eva CHENG, it sends a clear message in a polite manner to the Secretary, and it is hoped that she will take this as a warning and strive to serve the public better in various areas. More so, it is hoped that the Government will not condone large consortia to reap exorbitant profit and transport operators to increase transport fares unrestrainedly, nor will it condone estate developers and major property owners to strip the public of their money. I understand that the amendment today will be negated, but the Civic Party will surely support this amendment. The Secretary is not in the Chamber today, but I seem to see the Under Secretary outside the Chamber earlier. No matter what, I hope the Government will listen humbly and continue to learn together. Thank you, Deputy Chairman.

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

MR TAM YIU-CHUNG (in Cantonese): Deputy Chairman, just now, I heard Miss Tanya CHAN saying to learn humbly and listen attentively. She is being courteous to say so. However, I am not sure if she is reminding herself or the

Secretary to do so. I believe Members from the pan-democratic camp know that the several amendments only carry symbolic meaning, for the Government definitely cannot deduct the salary of Directors of Bureaux, which is in violation of the agreement between the Government and the Directors of Bureaux concerned. Since Directors of Bureaux are only employees, any deduction of salary will be in violation of the employment agreement. According to the existing Employment Ordinance, employers cannot arbitrarily deduct the salary of employees on the grounds of unsatisfactory performance. As we often urge employers to be scrupulous, it is thus undesirable for Members of the Legislative Council to behave like unscrupulous employers. Actually, the amendments cannot achieve the purpose of salary deduction. The act of deducting their salaries under the heads concerned only carries a symbolic meaning.

I have listened attentively to the reasons put forth by Miss Tanya CHAN earlier. She has criticized policies on housing and transport and considered the performance of the Secretary far from satisfactory. However, in my view, some of the criticisms raised by her are not purely the responsibility of the Secretary. For instance, she criticized the inadequate maintenance of the MTR and the inadequacies in other aspects. Though the Secretary is a member of the Board, it does not mean that she should be responsible for all administrative matters. Should she also be responsible for repairs? Certainly not. Besides, some of the policies are brought forward from her predecessor. As in the case of toll increase, where the Eastern Harbour Crossing and the Western Harbour Crossing may also increase their toll, the Secretary will not be able to change the situation completely unless the Government buys back those tunnels. Some issues are subject to the established mechanisms where she is not able to intervene. I am not finding excuses for the Secretary. However, if she is held accountable for all the existing inadequacies in housing and transport policies, and should be subject to salary deduction after discussion, everyone should be subject to salary deduction. Who can be exempted? Regarding the Secretaries of Departments and Directors of Bureaux, we can always find reasons for deducting their salaries. The deduction may even be imposed on a monthly basis, for there are problems every month; if not, we would not have to raise so many questions. Since their performance is not good enough, they have to subject to salary deduction every month. However, if their salaries have to be cut every month, I wonder how the next Government can secure the appointment of Secretaries of Departments and Directors of Bureaux. Next year, the Government of the new term will take over the existing one, and the identification of Secretaries of Departments and

Directors of Bureaux will start soon. If salary deduction is successfully imposed, all Directors of Bureaux will have to work on a voluntary basis, for no problems will arise if they do not get a salary, whereas if they get a salary, they will easily be subject to salary deduction.

Regarding the meaning behind this amendment, I will say that it is unjustified in logic. However, Members may take advantage of the annual Budget to put forth these amendments to vent their grievances. It is really a golden opportunity. For according to the Rules of Procedure, Members may speak for 15 minutes. We seldom have the opportunity to speak for 15 minutes. Even during the Second Reading debate on the Budget, we are only allowed to speak once for no more than 15 minutes. Since each Member is only allowed 15 minutes to speak on all the areas, it is definitely inadequate. However, this is not the case in proposing amendment, for Members may state the views they have not been able to express during the Second Reading debate of the Budget. They may repeat their views on topics like housing, transport, My Home Purchase Plan (MHP Plan), resuming the construction of Home Ownership Scheme (HOS) flats and increasing the supply of public rental housing, and so on. The benefit of this approach is that Members may speak for unlimited number of times. I, being the Chairman of the Committee on Rules of Procedure, consider this requirement too lenient, for there is no restriction on the number of times of speaking. Sometimes, Members may split their views into smaller sections and then speak about each of them in detail. Hence, after the operation on several occasions recently, I think the Rules of Procedure should be reviewed — some people may consider that I have digressed from the theme, but since the feeling just come over me, I have mentioned other issues briefly.

Back to the subject of salary deduction, just now, I heard Miss Tanya CHAN say that the deduction of one-month salary is not a small amount. This may be a slip of tongue. She probably meant to say that the one-month salary was not a large amount, which she wrongly put it as not a small amount. I heard this clearly. Actually, this is not a matter of the amount involved but a matter of whether it is justified to do so. Officials under the accountability system, be they Secretaries of Departments or Directors of Bureaux, have to listen to the views of the public carefully. However, it is impossible for them to ensure that policies introduced will not arouse controversies in society. But if they are to be held accountable whenever controversies occur, I think it is unfair. If so, no one will ever be willing to be Secretaries of Departments or Directors of Bureaux.

This is a pluralistic society. Some people will criticize when "cash handouts" are provided, and others will criticize when no "cash handouts" is offered. If only long-term measures are proposed, people will criticize, and if only short-term measures are proposed, people will also criticize. We have come across this a number of times, and this is not the first time. The Government can hardly ensure that no controversy will be aroused. I think it is impossible. I heard some Members state that the policies proposed have aroused great controversies, but it is impossible that no controversies will be aroused. It is definitely the responsibility of Secretaries of Departments or Directors of Bureaux to deal with the situation when there are different views, to find the solution to the problem and to adjust the policies to meet public aspirations. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) will by all means reflect the views collected to the officials, hoping that our views are close to the public sentiments and public pulse, and that their policies will fulfil the aspirations of the public better.

Take the proposal on MHP Plan of Ms Starry LEE as an example. It is regarded as a good proposal by the Government. We have also mentioned the resumption of the construction of HOS flats, but the Government considers this should not be mentioned again and some new suggestions should be proposed. The name My Home Purchase Plan is good. Applicants may rent the flats first and buy them later. However, we learn that some people want to purchase flats now, for they worry that property prices will go up further two years later, and we thus propose the "rent-or-buy" option, which will further set the mind of applicants at ease, for they have a choice. Now, the option providing the choice to rent or buy will surely be better than the one requiring them to buy the flat. I quote this example to illustrate that upon the introduction of a policy, the DAB will by all means put forth public sentiments and public opinions to the Secretaries of Departments or Directors of Bureaux, so that they will think about approaches to keep close to public sentiments and public opinions.

Mr IP Kwok-him has expressed the views of the DAB on salary deduction. Regarding the speeches I heard after dinner, I have something to get out of my chest. However, I will not spend all the 15 minutes, for I think I only need to state my views. The DAB will not support this amendment.

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

DR MARGARET NG (in Cantonese): Deputy Chairman, I would like to clarify a point regarding the earlier speech of Mr TAM Yiu-chung.

Mr TAM Yiu-chung is the Chairman of the Committee on Rules of Procedure, however, he has not been listening to the ruling of the Chairman in a committee of the whole Council as carefully as I did. I recall that when Mr WONG Yuk-man said he could speak for an unlimited number of times according to the Rules of Procedure and thus he would divide his very long speech into sections and read out in several times, the Chairman in a committee of the whole Council pointed out clearly that this was not the purpose of the Rules of Procedure. The purpose for setting the 15-minute time limit is to require speakers to express his or her views within each 15-minute time slot as far as possible. The Chairman has reminded Members of another requirement in the Rules of Procedure, that is, Members should not repeat the content mentioned in their previous speeches.

Hence, Deputy Chairman, I think we do not need to worry too much about this issue. Besides, the rule of allowing Members to speak for an unlimited number of times at the Committee stage has been a long-established requirement. According to my memory, there is always such a rule. Deputy Chairman, I just want to put the minds of Members at ease, so that they will not presume that we will rush to amend the Rules of Procedures tomorrow because the Chairman of the Committee on Rules of Procedure has such worry.

Thank You.

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy Chairman, I understand that by proposing the amendment, Mr LEE Wing-tat would like to take the opportunity to express his views again on land and housing polices. At the Second Reading debate on 2011 Appropriation Bill yesterday, the Financial Secretary had given a rather long explanation on the position of the Government in land and housing matters, and I do not want to

spend time to explain it further. I would like to reiterate that the Government is resolute in increasing land supply. This is beyond doubt. We will monitor closely the development of the market and continue to select residential sites from the Application List for direct sale when necessary. Regarding subsidized housing, the Government will continue to adopt an open and pragmatic attitude to address the aspiration of the public for home purchase. We will from time to time review the role of the Government and examine the implementation of housing policies and measures meeting the various needs of the public.

Regarding the amendment concerning salary deduction, I have stated in my previous three speeches that this practice adopted by Members seeking to deduct the salary of officials through proposing amendments to the Appropriation Bill is inappropriate and unreasonable. The Administration opposes this amendment.

Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): Mr LEE Wing-tat, do you wish to speak again?

MR LEE WING-TAT (in Cantonese): Deputy Chairman, just now I have listened attentively to Mr TAM Yiu-chung's speech. He opined that the pan-democratic camp should not take this opportunity to gain more chances to speak. He was right in saying so and the speaking time for the Budget debate is 15 minutes. Nonetheless, the focus of this year's Budget debate has been shifted to the handout of \$6,000. I have expressed my disagreement because in the Budget, there are more solemn issues to be discussed other than the \$6,000. Mr TAM said that I have gained more speaking time by proposing an amendment. I believe Mr TAM should know that what I did is in order, and should be well aware that my speech has not departed from the subject of the amendment.

(THE CHAIRMAN resumed the Chair)

I guess even he cannot think of a better solution. There are certainly times when government officials do or do not perform well in their job, so how

should we deal with them? The solemnest approach is, take Mr TAM Yiu-chung and I as an example, since both of us were returned through direct election, it would be easiest to have us foul out in the election held every four years in case we did not perform well. I will definitely not confront you in a violent way because I am aware that violent actions might arouse the dissatisfaction of my voters. There is a set of rules and restrictions governing the approaches to be adopted by a sensible Member in this Chamber. My opinions will not be too biased as voters may not necessarily agree with biased views. I had once quoted an example about an opinion that the more populist, which means

DR MARGARET NG (in Cantonese): man⁴ sei⁶ (民粹).

MR LEE WING-TAT (in Cantonese): Right, it means man⁴ sei⁶. Dr Margaret NG is really splendid for she is excellent in both Chinese and English. The more populist are the views expressed by the pan-democratic camp, the better it is. However, this is wrong. I went to observe Taiwan's election in 1994. One of the candidates undertook to offer free bus rides to passengers if he was elected the Mayor. He really said so. And yet, he was not elected. Do not think that people are so stupid. Future candidates of the Chief Executive — I am not saying the Chief Executive of Hong Kong, but of other places — can perhaps undertake to offer tax exemptions and free transportation to voters who vote for him, or guarantee that they can move into public rental housing in one year; afford to buy Home Ownership Scheme flats in two years or move to the mid-levels in four years. He can brag about all these, but no one will believe in him. Do not belittle our people as they are not so simple-minded.

Regarding Mr TAM Yiu-chung's question on what should be done, I opine that the problem lies in the fact that the government officials are not elected. We are not requiring that all officials be elected, but the worst thing is even the Chief executive is not elected by universal suffrage. So, is there anything that can be used to scare or sanction him? He is even not required to go through the baptism of election every four or five years to pursue re-election. Another approach is to seek action by the Parliament. In this connection, the most stringent action is taken by the British Parliament, which would express distrust of officials by a vote of non-confidence or vote of no confidence. The

Legislative Council has also done this before by expressing dissatisfaction at certain officials, for instance, in the era of Ms Rosanna WONG.

Another approach is that petty punishment warns against great penalty. How to achieve this? By slightly deducting the salaries of officials. For salary deduction, there is indeed no difference between taking one month's salary or \$1 from me. The said \$1 is only a nominal deduction to show that the performance of the official has failed to meet the requirement of the Parliament. According to the established overseas constitutional practice, when a deduction of salary by \$1 or a motion of vote of no confidence is directed against a minister, he should get the underlying meaning and step down to assume responsibility.

Why was the Financial Secretary not the Financial Secretary, but the pro-establishment camp so eager to prevent Mr Albert HO from proposing a vote of no confidence in the Financial Secretary? They should know very clearly that the motion can never get through. After all, this motion has made them feel very nervous, and thus an intentional interception had to be made. And yet, in our constitution, the Basic Law has not required the relevant official to step down should a motion on vote of no confidence is moved in the Legislative Council. In case a motion of this kind is passed, even if the official concerned remained in office and implement policies as usual, he has actually lost his authority and people's trust. This is why people are so serious about the salary deduction, though it is a mere deduction of \$1.

Mr TAM just now queried the actual meaning of our proposal. It is indeed not fair for him to accuse the pan-democratic camp for abusing the proposal of amendments of this kind. This is not our intention. Rather, our amendments only targeted a couple of officials. If criticisms have to be made to all three Secretaries of Department and 12 Directors of Bureau, there would be a lot more amendments.

A pretty solemn discussion had been conducted to consider how we are going to deal with the amendments concerning Matthew CHEUNG and Eva CHENG respectively. Although Secretary Eva CHENG and I have maintained a very good relationship outside this Council, and we talk and laugh like friends, her performance in policy formulation is a separate matter. Neither is there any ill-feeling between Secretary Prof K C CHAN and me. Although I had once lost temper and started a fight with him, I subsequently apologized. You can sought

confirmation with Secretary Prof K C CHAN on whether this was the case. I realized that it was wrong for me to lose temper, so I had apologized to him. For Secretary Carrie LAM, although I sometimes do want to chide her for making compromises with the major property developers, I have not done anything to make her difficult in private. We need to make a clear distinction between private and public interests. This is not a personal issue, but a matter of performance in policy formulation. We have no intention of showing our personal preferences. If we act according to our personal preference, there will be no yardstick at all. Worse still, the outcome will deviate from the expectation of the voters or the public at large. We will not be able to gain anything in the end. As I have just said, if we require all Directors of Bureau to step down or deduct their salaries, people will query what Members from the pan-democratic camp have done.

We have therefore gone through a solemn process before proposing the amendments. Thank you, Chairman.

CHAIRMAN (in Cantonese): I now put the question to you and that is

(Mr Abraham SHEK raised his hand)

CHAIRMAN (in Cantonese): Mr Abraham SHEK, do you wish to speak? Please be as concise as possible. As I have stated before, Members are advised to speak before government officials and Members proposing the amendment make their final speeches.

(Mr Abraham SHEK shook his head to indicate that he did not wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr LEE Wing-tat be passed. Will those in favour please raise their hands?

(Members raised hands)

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

(Members raised hands)

Mr LEE Wing-tat rose to claim a division.

CHAIRMAN (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for three minutes.

CHAIRMAN (in Cantonese): It is now 8.40 p.m. I assume that we shall be able to finish all the items on the Agenda before midnight today and thus the meeting will continue. However, as Members might be aware, the time required for discussing Committee stage amendments is hard to tell, so if I consider that we may not be able to finish all the items before midnight, I will announce an adjournment of the meeting at an appropriate time later today.

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

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

Functional Constituencies:

Dr Margaret NG, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

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

Geographical Constituencies:

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

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, three were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the sum for head 158 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Head 160.

MS CYD HO (in Cantonese): Chairman, I move that head 160 be reduced by \$1,984,200 in respect of subhead 000.

Chairman, the said \$1,984,200 is actually equivalent to one year's salary of a directorate civil servant at D5. While the previous amendments only propose a salary deduction, I am going to suggest something new to freshen Members up. This amendment is not intended to deduct salary, but to abolish a post. However, given the limited power of the Legislative Council, I can only make an amendment to this year's Budget, proposing to cut the remuneration of this D5 post for one year. The post concerned is actually the head of a government department, the Radio Television Hong Kong (RTHK), which is the Director of Broadcasting. Some colleagues asked me why an abolition of the post instead of a salary deduction was proposed, as this might leave the RTHK without a leader. They think that the proposed salary deduction merely aims to admonish the officials concerned such that they would do better.

The philosophy of my proposed abolition of this post is actually very similar to the Government's mindset to avoid having a fatty organizational structure. By cutting frivolous work, resources can be saved. Let me recap the relevant history. In August 2010, that is, more than half a year ago, the authorities promulgated the RTHK Charter (the Charter) signed by the Chief Secretary for Administration and the former Director of Broadcasting (the Director) Mr Franklin WONG. However, after signing the Charter, not much could be done by the Director of Broadcasting to uphold RTHK's editorial independence. Worse still, Mr Franklin WONG had turned a deaf ear to the views expressed by either RTHK staff or the general public. Instead, he has

made compromises in the capacity of the Director and abdicated his responsibility to uphold the independence of the RTHK. Therefore, the post should be abolished.

In fact, before 1997, Members had begun to discuss how the RTHK should break away from the Government and become an independent public broadcaster. Yet, like the democratic system, freedom of speech is also a monster to all governments. That is why the previous colonial government had been so conservative in its governance. It had only allowed the RTHK to function as a public broadcaster in practice, but continued to tightly control its source of capital and authority under the prevailing framework, like a rope hanging round the neck of the RTHK.

Since the RTHK could stop using press release prepared by the Government Information Services in the 1970s, it gradually developed an environment similar to a public broadcaster during the 1980s and 1990s. This is, after all, a stopgap product produced by the colonial government. It does not mean that the prevailing Government had willingly granted the RTHK with freedom of the press and editorial independence, not had it recognized the RTHK as a public service broadcaster.

It goes without saying that after 1997, the situation became even worse. After 1997, RTHK's editorial independence was even more uncompromising. Soon after the SAR Government was formed, many Hong Kong Deputies to the National People's Congress openly criticized RTHK programmes that satirized the ills of society as uninteresting — this is the remark made publicly by the then Chief Executive Mr TUNG Chee-hwa. The then Director of the old system was pretty responsible and hardworking. Except that the rescheduling of programme had aroused serious public suspicion and concern, he was able to uphold the principles on the whole. Thus, there was no need to abolish the post at that time.

In January 2006, the authorities officially appointed Mr Raymond Roy WONG to chair an advisory committee to study on the future of the RTHK and the need to establish a public service broadcaster in Hong Kong. The relevant report was completed in March 2007, which confirmed that Hong Kong needed to have a public service broadcaster that was independent of the Government. However, the report also pointed out that, after all, the RTHK was a government department, it was therefore inappropriate for it to change its status so abruptly.

Rather, RTHK staff should be allowed to apply for job transition after a public service broadcaster had been established.

Although RTHK staff was quite dissatisfied with the report, the Government had not responded to the recommendations made in the report until August 2010, when the Charter was released more than three years later. According to the Charter which was finally publicized, the RTHK would remain as a government department. In other words, the Government would still have ultimate authority over matters such as finance, personnel, staff deployment and source of authority. Regarding its structure, similar to the colonial period, the Director still does not have concrete power to uphold RTHK's editorial independence and he exists only in name. This has enabled the Government to cover up its intention of evading the establishment of a public service broadcaster and the monitoring of an independent media.

Furthermore, the new Charter has included a Board of Advisors (the Board), which was widely opposed. The Board does not have authorized power. Under Part E of the Charter, there are seven to eight paragraphs setting out the authority of the Board. However, it also stated that the Board has no concrete executive power.

A recent press release by the Government Information Services reiterated this point, highlighting that the Board does not have actual power. I nonetheless think that the Government is merely gauging public response. Although it is stated that the Board does not have concrete powers, there are many important issues which this Board may intervene in accordance with the Charter, which include tendering advice on the formulation of RTHK's Annual Plan. In other words, the Board may advise on RTHK's future development, editorial principles, adoption of performance evaluation indicators and ways to improve service delivery. Also, the Board may advise on the rules for disbursement of the Community Broadcasting Involvement Fund.

Another important point is, the Board can receive reports on complaints. Notwithstanding that the Board is only empowered to receive reports and tender advice, there is a very bad provision requiring that the Director should explain in writing for not following the advice of the Board. This is terrible because the Director might have to explain in writing everyday if they often have divergent views.

In fact, RTHK staff has already vented their grudges in private — but never dare to do so in public — the Director and other RTHK staff have to spend a lot of time providing secretarial and other necessary support for the Board meetings, thus not much time is left to deal with RTHK's core affairs. However, the Board is not accountable to the public, nor does it have the experts possessing experience in public service broadcasting. The work is beyond the Board members' capability and is not essential to them. Therefore, Chairman, there are views that the Board and the relevant work should be abolished. And if the Director has to spend so much time to deal with the Board, the post should also be abolished.

The third reason of abolishing this post is, the appointment of the Director has become political appointment. The Government has actually gone too far and is very cunning. Since the RTHK is a government department, its staff is definitely civil servant. As far as we understand, all professional grades must be promoted from within. However, open recruitment had been conducted before the employment of Franklin WONG, which had attracted much controversies. In fact, in Hong Kong, people who can best understand local culture and possess public broadcasting experience are the existing RTHK staff. A former RTHK employee (who has nonetheless completely lost track of time) was finally selected in the ground that he has worked with Singapore's Media Corp. The Government considered that he has the experience working in a public service broadcaster in Singapore. However, I beg the Government not to cheat us. Singapore Media Corp is actually a branch of the Singaporean government tasked to control the media. It is therefore an "official mouthpiece" rather than a genuinely independent public service broadcaster.

For Franklin WONG, recently many people underwent balloon angioplasty recently due to the immense work pressure. He has resigned and decided not to renew his contract. So, again, open recruitment has been conducted lately. However, no one is willing to be the scapegoat. As reported by the media, the possible candidates include a former Administrative Officer, a senior management of the Asia TV and someone from the public relations field. These are the possible candidates. And yet, if the RTHK is a genuine government department, internal promotion should be conducted to appoint people with experience in public service broadcasting. What is more, the post of Director should not become a political appointment that selected people to tighten the control over the RTHK.

Chairman, the fourth reason is to save money. After the financial tsunami, the Government has stepped up its effort in saving resources by ordering all departments to save at least 5% in three years. The RTHK has saved more than other departments. It has not only achieved the 5% saving, but an additional 5% as well. Furthermore, the Government has imposed a recruitment freeze on the civil service for some time. It is right in doing so, because only necessary expenditures should be made and unnecessary expenditures should be avoided. However, the Director has been made redundant in the RTHK. Why did I say so? We learnt from a recently published report on establishment that a Deputy Director of Broadcasting will be added to the RTHK. This is a newly created D3 post. The RTHK originally has one Deputy Director, and the post had once been taken up by an Administrative Officer Miss Gracie FOO, who was superseded by Mr Gordon LEUNG. With the addition of a new Deputy Director, the RTHK will soon have two Deputy Directors. One of them will be responsible for production just like before, another will be responsible for the reprovisioning of the new Broadcasting House, multi-media programmes and editing for webcast (the right to edit), as well as administration.

Production is the core business of the RTHK, so one Deputy Director should be enough. Some people argued that the chaotic management of the RTHK necessitates the creation of an additional post responsible for administration. Coupled with the reprovisioning project and the advance of multi-media production, it is perfect to recruit one more person. The post of Director will become redundant if he is not tasked to deal with the Board, a super-power which overrides the RTHK. Therefore, judging from the principles of streamlined structure and prudence promoted by the Government, the post of Director could therefore be abolished.

Chairman, another reason is to safeguard the freedom of the press. Although we have been saying that the media have all along exercised self-censorship, the Government has turned a deaf ear to us. Last week, the United States published the Human Right Report 2010, which has included information collected in Hong Kong. Apart from the information which have been included year after year over the past decade, the Government has finally made some responses to the restrictions imposed on the RTHK and the self-censorship exercised by the local media. Let me read out the press release by the Government Information Services: "A free press, with rights and freedoms protected by the Basic Law and the Hong Kong Bill of Rights Ordinance, is the

most effective safeguard against self-censorship. Ultimately, those working in the field must protect the integrity of their profession."

In fact, this is what RTHK staff has been doing all along as the Director has not done anything to help upholding editorial independence. Thus, over the past few years, RTHK production staff has been protecting the integrity of their profession as said in the press release. There has been a case where the RTHK was betrayed by Franklin WONG, who had signed a charter which compromises RTHK's editorial independence of the RTHK to the neglect of the demand of RTHK staff and the general public. In future, no Director (whoever he is) will be capable of upholding editorial independence under the Charter.

Just as the Government has said, "Those working in the field must protect the integrity of their profession". They have been doing so in their best effort. This is indeed very respectable and adorable. Therefore, the post of Director is no longer necessary and thus, Chairman, I propose to abolish this post.

Ms Cyd HO moved the following motion:

"RESOLVED that head 160 be reduced by \$1,984,200 in respect of subhead 000."

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

MS AUDREY EU (in Cantonese): Chairman, I just speak to briefly explain the Civic Party's voting position in this motion.

We understand that Ms Cyd HO has moved this amendment out of goodwill. She highlighted that it is difficult, to a certain extent, for the Radio Television Hong Kong (RTHK) to achieve editorial independence in view of its system. Despite her years of struggle, the RTHK is still a government body. So, she has probably implied that the post of Director of Broadcasting (the Director) should better be abolished if it cannot safeguard editorial independence and exists only in name, together with the heavy workload in dealing with the super-power body, the Board of Advisors (the Board), in particular.

I have listened very carefully to Ms HO's speech and noticed that the cases mentioned by her mainly pinpointed on the former Director Mr Franklin WONG. The Civic Party opines that no matter how incapable the former Director was, it does not mean that the post should be abolished. We can see that some previous directors (like CHEUNG Man-ye) did earn the trust of Hong Kong people. We look forward to seeing a better Director of Broadcasting in future, who can lead RTHK staff to genuinely achieve the editorial independence cherished by Hong Kong people.

The question under discussion today is not a deduction of salary of an incumbent Director who does not perform well, but a cut in the whole year's funding for the relevant post. It is impossible for the Civic Party to support this proposal. The recruitment exercise of the relevant post is still underway, and no one knows who will be the predecessor. And yet, we think that no matter how incompetent the previous directors were, the RTHK has to assume its important role anyway. Nor do we think that the Director will be made redundant with the creation of the post of Deputy Director. We can see that in many occasions, Hong Kong people did stand in support of the RTHK, its Director and staff, hoping that they could do better and voice the views of Hong Kong people. This also explains why the Civic party is so sorry that it cannot support Ms Cyd HO's amendment.

MR LEE WING-TAT (in Cantonese): Since the Acting Secretary is present at the meeting, I would like say something about the relevant post in the Radio Television Hong Kong (RTHK) and speak the minds of its staff.

The Legislative Council Panel on Information Technology and Broadcasting has recently discussed a number of important issues, and one of which is — it is good to have the Financial Secretary here now — the recruitment exercise currently conducted by the RTHK to fill certain posts, which are nonetheless not newly created. As we all know, under the existing system, there are the so-called establishment and strength. As a result of an extensive recruitment freeze, there is a great difference between the establishment and strength of the RTHK. The purpose of the current exercise is only to fill some of the vacancies.

At present, the RTHK is mainly composed of non-civil service contract (NCSC) staff. However, I hope that the Financial Secretary and Secretary would understand that recruitment of this kind would encounter certain difficulties. Honestly speaking, many NCSC staff has actually worked in the RTHK for a decade. "Siu Ho" (sometimes plays the role of an emperor in drama series), who attended a meeting at this Council, has worked in the RTHK for 10 years. Although he has all along remained at the same rank, his performance is actually very good. Yet, the Government refused to let him change into permanent staff. This presents a big headache. In fact, this problem is related to the post under discussion, for instance, will the Director do its best to fight for the interest of its staff when discussing with the Government? Why? Chairman, the problem lies in the presence of such a large number of NCSC staff (almost 15% to 20%) in the RTHK, which would undermine the overall staff morale. In view of the prosperous employment market, they ponder how much longer they would work in the RTHK.

I consider this the first thing which the Director has not done well, given that the RTHK is comprised of people. Secondly, I agree with Ms Cyd HO that the establishment of a Board of Advisors (the Board) is pretty worrying when the RTHK has failed to become a public service broadcaster. In fact, whether or not the Board is a super-power, people cannot help thinking that the RTHK is nothing but a subordinate body to this Board at its disposal.

At that time, I had suggested to the Government that the Director and the Board should maintain a somewhat conciliatory relationship. First, the Board cannot intervene in the operation of the RTHK. Second, all records of meetings must be made public. Yet, it has yet to be able to do so. As far as I am aware, it still fails to publish its records to address public concern. Third, it goes without saying that it has something to do with the Director and money — it is good to see the Financial Secretary here at the meeting — space has become insufficient as a result of RTHK's development, and there is a need to identify new sites as headquarter. It is hoped that the Financial Secretary and Secretary will expeditiously discuss on the matter so that the RTHK can relocate as soon as possible.

Actually, this will also benefit the Government. Honestly speaking, the site where the RTHK stands is very valuable. Relocation to Tseung Kwan O will enable the RTHK to have a new Broadcasting House. However, judging

from the present situation, it would be impossible for the RTHK to relocate within a short period of time (say five years) as the site must be granted in the first place, which will be followed by planning, design, construction and relocation. I hope that the Financial Secretary and Secretary will expeditiously decide on this matter so that the RTHK can have a new Broadcasting House and new facilities, whereas the Government will have a piece of land on Broadcast Drive for sale.

Chairman, let us come back to Ms CYD HO's proposal. After serious discussion, the Democratic Party decided not to support this amendment. Mr TAM Yiu-chung just now said that we proposed an amendment for the sake of doing so. This is not always true. Why? We are certainly dissatisfied with the work of the Director in many respects, but the abolition of the post would result in a very strange structure with two Deputy Directors but no Director.

Should Ms Cyd HO retain the existing structure of a Director and Deputy Director, it would at least look more logical to me as the head of an organization would be supported by an assistant. However, according to the proposed amendment, there will be two Deputy Directors but no Director. No matter how hard I think, I really cannot figure out how it works. Unless this is only a transitional arrangement, otherwise it can hardly operate in the long run.

Regarding the post of Director, no one knows who will be the new Director. Thus, after discussion, we consider the proposed change undesirable. Rather, we hope that the Government will give more recognition and appreciation to RTHK's independence and editorial independence, as well as staff support and future development.

Chairman, I often think that the Government has a pretty bad habit, and that is, its hatred towards a certain department would gradually become obvious to all. During the colonial era the Top Ten Chinese Gold Songs Awards Presentation is an annual show of the RTHK. I remember that after the reunification, Mr TUNG Chee-hwa had also attended the show. Chairman, do you know that? He had even become a joke by saying "I am going to present this award to Mr Maggie CHEUNG". I am not lying. Mr TUNG Chee-hwa thought Maggie CHEUNG is a man without knowing that she is a lady.

I wonder if the Government has any disagreement with the RTHK as I rarely have seen any Director of Bureau attending activities organized by the RTHK since then, except for the Lunar New Year gathering attended by television broadcasters. I have attended the Top Ten Chinese Gold Songs Awards Presentation Show many times, not only for the songs, but as a show of my support for the RTHK. I attended the show because I seldom have a chance to show my support. A few years ago, I saw that the Director of Bureau (even those of a very low profile) had attended the show I am pretty sure that the Under Secretary had not attended the show last year. Neither did I see Mr Gregory SO in this year's show. Both the Secretary and Under Secretary had not attended the show last year, as well as the year before. They had not attended for many years.

This is a major show of the RTHK which would be broadcasted. Let us put aside the Chief Executive or Secretaries of Department for the time being. How could RTHK staff or its Director feel the recognition of the Government if even the Secretary or Under Secretary refused to attend to show their support? Some people may say that "the Government does not like a complaining RTHK which always chides and is disobedient." However, the fact that both the Secretary and Under Secretary had not attended the show will easily make one believe that such a perplexing remark is true.

While I saw that the Director had attended the show on those occasions, I seldom saw the Secretary or Under Secretary. All I can say is that if the Government really supports the RTHK, it should: Firstly, the most practicable thing to do is to expeditiously conduct recruitment exercise and flexibly deal with the non-civil service contract staff to provide them with more stable jobs. Secondly, demonstrate its commitment to the funding for development. Thirdly, Secretaries of Department and Director of Bureau must give more concrete support to the activities organized by the RTHK. Thank you, Chairman.

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

MR FREDERICK FUNG (in Cantonese): Chairman, regarding this issue, we can actually discuss from a few perspectives.

First of all, what is the function of the Director of Broadcasting (the Director)? Ms Cyd HO has already mentioned earlier. We expect that the Director should be able to lead the Radio Television Hong Kong (RTHK) to become a public broadcaster, or even a more independent organization. But is this the role of the Director? Members may have further discussions or debates on this question. However, this is not his role in nature as he is a civil servant. Civil servants have their own system and responsibilities, and different authorities have been assigned to different posts.

In fact, the post of Director is also governed by a set of provisions. I do not expect the new Director or any previous directors to lead the RTHK to become a public broadcaster or a more independent organization soon after he takes office. In fact, I do not think any director, whoever he is, can do anything to help accomplishing those missions.

Whether or not we can have an independent public broadcaster in future depends on: First, whether the Government really wants to have such an organization. Second, whether existing RTHK staff would work together to fight for this cause. Third, whether Hong Kong people, including Legislative Council Members, have the common goal, so that RTHK staff and members of the public will join efforts to push the Government to achieve the goal, or the Government, RTHK staff and members of the public will work together to get the job done. I fail to see how the Director Although the Director has a strong wish to turn the RTHK into a public broadcaster, he had failed to do so. If his boss refused, he could only do what he is asked to. After all, he is a civil servant but not a Director of Bureau or a policy official. Even if he is a Director of Bureau or a policy official, he is only a member of Chief Executive Donald TSANG's governing team. He must follow the ruling mindset of the Chief Executive, including what was laid down in his political platform. If the entire governing team of the Chief Executive thinks in another way, the appointed director should definitely think in that way too, am I right? You will probably not take up the job if you think differently. Therefore, I will not link up the two things — you should go for it because you are the Director. Contrarily, it is precisely because he is the Director, he is not expected to struggle for RTHK's independence. This is my personal view and also the first point.

Secondly, the RTHK is a huge organization I like the RTHK very much, especially its veteran broadcasters. I really love them very much. The

RTHK itself is a mature and well-developed organization, which has a special place in the heart of Hong Kong people. Its structure must be genuinely comprehensive as any deficiency will undermine its internal operation, thereby undermine its development at this moment when it has yet to become a public broadcaster. Therefore, I think that there is an urgent need to appoint a new Director.

Thirdly, I share Mr LEE Wing-tat's view that the abolition of the post of Director, leaving only two Deputy Directors, will give rise to a "two-head snake". But which head is bigger? In the end, one of them must be the leader. Will one of the Deputy Directors be promoted as Director or what? This is a cold case. Who will take the lead when there is no Director but just two Deputy Directors?

Judging from the abovementioned three points, I think that I cannot support this amendment. However, on the whole, I support that the Government, RTHK staff and members of the public should join efforts to turn the RTHK into an independent public broadcaster, so that Hong Kong can have a public broadcaster that is free from the influence of advertisements, or the influence of the commercial or business sectors through advertisements (which means a public broadcaster which lives on the market) but can still survive.

Thank you, Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Chairman, Ms Cyd HO has proposed an amendment to the Appropriation Bill 2011, that head 160 be reduced by \$1,984,200 in respect of subhead 000 (the subhead for operational expenses of the Radio Television Hong Kong (RTHK)), thereby abolishing the post of Director of Broadcasting (the Director). We consider that this amendment will seriously undermine RTHK's day-to-day operation and development, so I implore Members to oppose this amendment.

The RTHK is a local public service broadcaster and the Director is its department head. It is not a redundant post as described by Ms Cyd HO. The main duties of the Director is: (a) leading the RTHK towards achieving its public purposes and mission and ensuring compliance with the Charter of the RTHK; (b) acting as the Editor-in-chief to ensure that a system of editorial control in accordance with RTHK's Producers' Guidelines is in place to provide accurate, impartial, objective and quality news, public affairs and general programming that inform, educate and entertain the public, and (c) planning for the new developments of the RTHK as a public service broadcaster and managing the RTHK in providing high-quality radio and TV services, school education television productions and new media services.

As we can see, the Director is not only responsible for leading the day-to-day operation and future development of the RTHK, it is also tasked with a heavy responsibility as the Editor-in-chief. Thus, the importance of the Director to the RTHK is beyond doubt.

Furthermore, in order to achieve the mission of a local public service broadcaster, the RTHK will embark on various new development initiatives in the coming few years, including the preparation for the launch of digital audio broadcasting and digital terrestrial television broadcasting services, facilitating community involvement in broadcasting, reprovisioning of the new Broadcasting House and establishing a digital media asset management system. We expect that the preparation work of our future developments and initiatives will be extremely heavy and challenging. The RTHK has entered a new stage of development and at this important juncture, the leadership of the Director is urgently needed to meet the future challenges, and leading the RTHK to implement new plans to provide quality broadcasting services to the public at large.

Ms Cyd HO just now mentioned the RTHK Charter (the Charter) time and again. I wish to reiterate that the authorities have all along attached great importance to and respected the editorial independence of the RTHK. The Charter promulgated in August last year has stated clearly that the RTHK enjoys editorial independence. Being the head and Editor-in-chief of the RTHK, the Director will continue to uphold the principle of editorial independence unswervingly in accordance with the Charter and the Producers' Guidelines.

A Member said that the establishment of the Board of Advisors (the Board) might undermine RTHK's editorial independence. I totally disagree with this. I reiterate that the Board is only an advisory body for tendering advice to the Director on the services of the RTHK. It has no executive power at all. The ultimate editorial responsibility of the RTHK rests with the Director. The duties of the Board have been clearly set out in the Charter, and there is absolutely no such thing as intervention of RTHK's editorial independence.

Two Members mentioned the recruitment exercise of the Director. The Government is, according to the established procedures, inviting applications from eligible candidates from the private sector and from within the Government through open recruitment and internal appointment, so as to identify the most suitable candidate to fill the post of Director. We believe the abovementioned arrangement is completely in line with the public expectation that, an open and highly transparent selection process will be conducted to identify, via extensive channels, the most suitable candidate to lead the RTHK. The recruitment exercise is now underway, so no further comment can be made at this stage. The recruitment result will be announced in due course.

In fact, we highly cherish the experts of the RTHK, and understand that as a media organization, the RTHK must have certain operational flexibilities. Thus, it is necessary to retain a certain amount of non-civil service contract staff. The RTHK management has been proactively liaising with staff at different levels to understand their concerns. The RTHK will continue its work to ensure that the staff can rest assured.

Chairman, the Government will attach importance to and respect RTHK's editorial independence as in the past. Being the Editor-in-chief of the RTHK, the Director will definitely continue to uphold its editorial independence. In case Ms HO's amendment is passed, the day-to-day operation and the launching of new initiatives by the RTHK will be undermined in the absence of a department head, which will have significant adverse effects on its future development. This is gravely irresponsible and apparently inconsistent with public interests. I implore Members to oppose Ms HO's amendment.

Thank you, Chairman.

MS CYD HO (in Cantonese): Chairman, I need not implore the Secretary to support my amendment because it will not be able to obtain the majority votes of Members.

I think I am a Member from the pan-democratic camp who opposed most strongly against the pro-establishment camp. While Members think that all departments must have a head, I do not think so. The fact is, although Franklin WONG has left office for two to three months, during which Gordon LEUNG act as the Director of Broadcasting (the Director), the Radio Television Hong Kong (RTHK) has been operating very smoothly round-the-clock over the past three months.

Chairman, as I proposed this amendment at a date much earlier than the delivery of the Budget, it is not intended to pinpoint the Financial Secretary. Rather, it was proposed out of my concern over the operation of the RTHK and its ability to be transformed into a public service broadcaster. As I have pointed out as early as February, I would propose an amendment in this Council.

In fact, before proposing this amendment, I had asked myself if it pinpoints a person or a system. I certainly think that Franklin WONG is incompetent as he has failed to uphold RTHK's editorial independence. What if the post of Director is taken up by someone else? Recently, there have been many reports that no one from the private sector is willing to be the scapegoat. It is possible that the Government has no choice but to seek internal promotion, and the staff promoted might be an incumbent RTHK employee who is trusted by all. What should the Government do when this trusted employee being promoted from within retires? Will an open recruitment be conducted? Is this another political appointment? What will happen then?

Chairman, I have pondered upon this question. Today's proposed amendment to abolish the post of Director pinpoints a system but not anyone. Neither does it pinpoint the previous moves made by Franklin WONG which infringed upon the interests of RTHK staff and the general public. The Democratic Party considers it more appropriate to abolish the post of Deputy Director. This is why some RTHK staff asked me if the amendment pinpoints the Deputy Director. No, it is not. If Members intend to pinpoint the Deputy Director, they will soon have an opportunity to do so as the recruitment of the post concerned has yet to be approved by the Finance Committee. Members can

still look into the staffing structure of the RTHK when considering the recruitment of the relevant post.

Under the RTHK Charter (the Charter), it is impossible for the Director, whoever he is, to perform the duty as an Editor-in-chief or uphold RTHK's editorial independence. Unless one of the provisions of the Charter is removed, otherwise, I cannot agree with the views expressed by the Secretary earlier. The said provision was paragraph 16(a) in Part E of the Charter, which reads: "the Director should give due weight and consideration to all advice provided by the Board. The Director shall report and explain to the Board the reasons for not following the advice of the Board". This provision is clear and concrete.

If paragraph 16(a) of the Charter is removed It can hold water to argue that the Board has no executive power. It just spends a lot of time having meetings with the Director, and the Director is not required to submit any written explanation. Members may ask: Does it mean that the Board is totally unchecked? No, it is governed by the Secretary and the Annual Plan, which it has tendered advice, may not necessarily be endorsed.

In case a complaint is received, there is a better alternative called the Broadcasting Authority (the Authority). The Authority will, in accordance with the Broadcasting Authority Ordinance (Cap. 391), refer the complaint to the Broadcasting Authority Complaints Committee. The complaint will then be systematically classified as trivial, frivolous, unjustified, partially justified or justified before follow-up actions are taken accordingly.

Therefore, if the RTHK is a government department, there are sufficient channels for it to be held accountable to the Government and the general public. This is because the Board of Advisors (the Board) (comprising of audience and people from all walks of life), having more than 100 members, has been established under the RTHK and regular meetings will be conducted. The Board is not comprised of just 10-odd members. Neither are its meetings held closed door.

Chairman, the Secretary just now said that the RTHK is a local public service broadcaster. It does not matter if Members have divergent views, but they should avoid stirring up confusion: The fact is the RTHK is currently a government department. I would like to ask the Secretary to read paragraph 66

of the Report on Review of Public Service Broadcasting in Hong Kong (the Review Report) prepared by Mr Raymond Roy WONG, which reads: "Turning to RTHK, it is funded fully by the public and tasked to provide programmes that inform, educate and entertain. However, these attributes are insufficient to qualify RTHK as a public broadcaster, or ensure that its services satisfy public needs for public service broadcasting."

It does not matter if Members have divergent views, but they must speak the truth. I hope that our discussion would help people gain a better understanding of the RTHK, instead of misleading people by saying that the RTHK is a public service broadcaster. Mr Raymond Roy WONG has clearly stated this piece of truth in the Review Report, so I hope that the Secretary will read it very carefully.

I also wish to talk about the responsibility of an Editor-in-chief. The performance of Mr Gordon LEUNG during these few months of acting as Editor-in-chief is perfectly obvious. A RTHK staff asked me to cite a little example to illustrate the incompetence of this Editor-in-chief, who has failed to perform the duty of protecting the freedom of the press and freedom of speech. The example is about the live broadcast of the funeral service of "Uncle Wah" — Mr SZETO Wah. The RTHK originally intended to hold a live webcast of the funeral service and necessary arrangements have been made with the funeral organizer long ago. However, it later decided not to abandon the live webcast. Information has revealed that the decision was made by the Acting Director Mr Gordon LEUNG.

Decisions can be made behind the scene and Mr LEUNG has never admitted in front of a camera that the decision was made by him. This is nonetheless not the point which we concern most. Our utmost concern is that Mr LEUNG had once said in front of a camera, "It does not matter even if there is no live webcast. A live-feed hyperlink would be provided as the funeral organizer committee would be responsible for the production itself. The RTHK would provide a live-feed hyperlink at the station's website for people to watch the funeral."

The RTHK is a media organization, and all media organizations are obliged to report the truth from their own angles. They should not report news by way of hyperlinks. If hyperlinks can be used to report news and the job is therefore

done, it would be better to turn the RTHK into an organization providing webcast services. BBC also provided a number of hyperlinks. Our Government Information Services, however, produces its own news reports. If we follow this logic, why should the RTHK set up its own radio newsroom? It can simply provide education and entertainment programmes by way of hyperlinks. How can this be regarded as genuine public broadcasting service?

Chairman, if an acting Editor-in-chief who is not appointed through internal promotion thinks that he has performed his duty as an Editor-in-chief by providing a hyperlink, how can we trust that the person who takes up the post of Editor-in-chief of a media organization via open recruitment is genuinely competent to perform his duty?

Chairman, after serious consideration, I reconfirm that my amendment to abolish the post of Director only pinpoints the system instead of a person.

Thank you, Chairman.

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

(Members raised hands)

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

(Members raised hands)

Ms Cyd HO rose to claim a division.

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

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

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

Functional Constituencies:

Mr CHEUNG Kwok-che voted for the amendment.

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

Geographical Constituencies:

Mr LEE Cheuk-yan and Ms Cyd HO voted for the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG and Miss Tanya CHAN voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 27 were present, one was in favour of the amendment and 26 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, two were in favour of the amendment and 22 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the sum for head 160 stands part of the Schedule.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the sum for head 160 stands part of the Schedule. Will those in favour please raise their hands?

(Members raised hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the earlier amendment by the Financial Secretary to increase the sum for head 106 has been passed, in accordance with Rule 57(2) of the Rules of Procedure, I now give leave for the Financial Secretary to move consequential amendments to the Schedule.

FINANCIAL SECRETARY (in Cantonese): Chairman, I move that the sub-total of \$301,809,154,000 after Vote Number 194 in the Schedule be deleted and substituted by \$308,909,154,000, and that the total of \$326,809,154,000 at the end of the Schedule be deleted and substituted by \$333,909,154,000, in accordance with the decision just taken by the committee in respect of the sums for head 106. Thank you, Chairman.

Proposed amendments

Schedule (see Annex I)

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

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule as amended.

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

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

(Members raised hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): We now consider the clauses of the Bill. I now propose the question to you and that is: That the following clause stands part of the Bill.

CLERK (in Cantonese): Clause 1.

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

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2.

FINANCIAL SECRETARY (in Cantonese): Chairman, in accordance with Rule 68(6) of the Rules of Procedure, I move a consequential amendment to

clause 2 that the sum of \$326,809,154,000 be deleted and substituted by \$333,909,154,000. Thank you, Chairman.

Proposed amendments

Clause 2 (see Annex I)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by the Financial Secretary be passed.

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

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 2 as amended stands part of the Bill.

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

(Members raised hands)

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

(No hands raised)

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

CLERK (in Cantonese): Long title.

FINANCIAL SECRETARY (in Cantonese): Chairman, I move a consequential amendment to the long title that the sum of \$326,809,154,000 be deleted and substituted by \$333,909,154,000. Thank you, Chairman.

Proposed amendments

Long title (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment moved by the Financial Secretary concerning the long title be passed.

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

(No Member indicated a wish to speak)

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

(Members raised hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill. Third Reading.

APPROPRIATION BILL 2011

FINANCIAL SECRETARY (in Cantonese): President, the

Appropriation Bill 2011

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Appropriation Bill 2011 be read the Third time and do pass.

According to Rule 70 of the Rules of Procedure, the motion for Third Reading shall be voted on without amendment or debate.

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.

(Members raised their hands)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO 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.

Dr Raymond HO, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick

FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted against the motion.

Dr Joseph LEE abstained.

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

THE PRESIDENT announced that there were 54 Members present, 33 were in favour of the motion, 19 against it and one abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Appropriation Bill 2011.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Declaration of Constituencies (District Councils) Order 2011 and the Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011.

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

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS MIRIAM LAU (in Cantonese): President, at the House Committee meeting on 1 April 2011, it was resolved that two subcommittees be established to separately scrutinize the two pieces of subsidiary legislation as set out in the motion. It has also been agreed that I, in my capacity as Chairman of the House Committee, move a motion to extend the deadlines for scrutinizing the two pieces

of subsidiary legislation to 18 May 2011, so as to render more time for scrutiny by the subcommittees.

President, details of the motion are set out in the Agenda. I urge for Members' support of the motion.

Ms Miriam LAU moved the following motion:

"RESOLVED that in relation to the —

- (a) Declaration of Constituencies (District Councils) Order 2011, published in the Gazette as Legal Notice No. 44 of 2011; and
- (b) Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011, published in the Gazette as Legal Notice No. 45 of 2011,

and laid on the table of the Legislative Council on 30 March 2011, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 18 May 2011."

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the independent Electoral Affairs Commission (the Commission) makes recommendations regarding the delineation of the District Council constituencies and their names pursuant to the power conferred by law for consideration by the Chief Executive in Council. The Chief Executive in Council accepted the Commission's recommendations in their entirety on 22 March.

I would like to take today's opportunity to reiterate several important considerations.

Firstly, in making recommendations for the delineation of the District Council constituencies, the Commission shall follow the criteria which are expressly provided for in the Electoral Affairs Commission Ordinance (the Ordinance). The legislature should not lead in determining the delineation. This is an important constitutional principle.

Moreover, the Commission also conducted public consultation on its provisional recommendations during the period starting from 3 December 2010 to 3 January 2011 in accordance with the statutory requirements in the Ordinance. Two public forums were held. The Commission received 472 written representations and 45 oral representations including those from political parties, District Council members and local personalities, and so on. As such, the political parties and the public would have had sufficient opportunities to reflect their views to the Commission. Having considered the different representations, the Commission has endeavoured to strike a balance between the expressed wishes of the public and the statutory criteria for demarcation in order to arrive at the recommendations for delineation.

The Legislative Council has decided to establish a Subcommittee to examine the Declaration of Constituencies (District Councils) Order 2011. As the District Councils election will be held in November, persons intending to stand for the election would wish to start the preparation early. Therefore, I appeal to the Legislative Council to put forth their views on the Order and to complete the scrutiny of the subsidiary legislation as soon as possible, so that persons intending to stand for the election will have sufficient time to prepare for the election.

President, I so submit.

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

DR MARGARET NG (in Cantonese): President, it is late in the night now. However, this is the first time that I find a motion on extension of deadline seeking to extend the period for amending an order and a notice which are totally unrelated to each other. Perhaps Ms Miriam LAU can later explain whether this

arrangement allows Members to support one piece of the subsidiary legislation while negating the other? Thank you, President.

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

(No Member indicated a wish to speak)

MS MIRIAM LAU (in Cantonese): President, I thank Dr Margaret NG for her question. Actually, the motion is procedural in nature and this procedural motion has in fact been duly discussed in the House Committee. It has been agreed in the House Committee that the period for amending the Order and the Notice concerned be extended. Hence, if Members now suddenly wish to cast votes on the two pieces of subsidiary legislation separately, I believe it will go against the consensus which has been reached in the House Committee then. I hope this scenario will not happen, but if it does happen, we will review whether in future the House Committee should adopt this approach of extending the period for amending more than one piece of subsidiary legislation in a common motion. Next time, we may need to use more Council time to present the pieces of subsidiary legislation in two separate motions. I am willing to do so, but the point is, I am only acting in compliance with the consensus reached by members of the House Committee on that day. Thank you, President.

DR MARGARET NG (in Cantonese): Pardon me, President, I have a point of order. Ms Miriam LAU just said that this is because the House Committee has made such a decision, but decisions of the House Committee have never been binding.

My point of order is, in case in this debate, certain Members support extending the period for amending one piece of the subsidiary legislation but do not support the other, can the two pieces of subsidiary legislation be handled separately now? If they cannot, is the present arrangement out of order?

MR JAMES TO (in Cantonese): President, I wish to put this on record. I have been in this Council for almost 20 years, but never have I seen in motion debates

on extension of amendment periods moved by Chairman of the House Committee, a public officer would press Members in his formal address to the Council to expeditiously pass an ordinance or remind Members to take note of the time constraint. In fact, we are well aware of the time constraint. I do not know why the public officer has to make such a remark on this occasion when he was formally addressing the Council. Is he putting pressure on us? Or is he assuming that we were not aware of this and thus he wants to remind us?

President, I am relatively senior in this Council, but I really have never heard of any public officer who, in a simple motion debate on the extension of the amendment period, would press Members like that.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I wish to make a brief remark. The subsidiary legislation is about the delineation of constituencies. As far as I remember, in my nearly nine years as Secretary for Constitutional and Mainland Affairs, this subsidiary legislation has never been subject to the scrutiny of a subcommittee established by the Legislative Council. For every election in the past, the independent Electoral Affairs Commission and the proposals made by the Commission were well respected. This time is rather special. The Legislative Council has decided to establish a subcommittee to carry out the scrutiny. The Administration respects this decision. However, we need to reiterate a few points for Members' reference. The Administration will wait for the Legislative Council to complete the scrutiny of the subsidiary legislation, which will then, according to the procedure, that is, the relevant requirements under the Rules of Procedure, be laid down before this Council for voting.

MR JAMES TO (in Cantonese): President, I wish to put my speech on record. This Council has even after the Electoral Affairs Commission (the Commission) has proposed the delineation of the constituencies This Council has established a committee to consider its proposal. At that time, colleagues have carefully considered the recommendations. The Commission is an independent statutory body and we fully respect its recommendations. We will consider its recommendations from a non-political perspective. Nevertheless, this Council did form a committee to consider its recommendations in the past.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Dr Margaret NG has raised a question about the Rules of Procedure. In order to address this question, I need to suspend the meeting. However, before doing so, I wish to know whether any Member would now request that the two pieces of subsidiary legislation on extending the amendment period as to be moved under the same proposed resolution be voted separately? If not, we will deal with this item first and examine this question after the meeting.

Is there any Member who wishes to request that the subsidiary legislation be voted under two separate proposed resolutions?

(No Member requested a separate voting)

PRESIDENT (in Cantonese): If not, Ms Miriam LAU, do you need to speak again?

MS MIRIAM LAU (in Cantonese): President, I wish to add a few words. In the House Committee meeting where we discussed whether the period for amending the two pieces of subsidiary legislation be extended, it was agreed by

all colleagues that I, in my capacity as Chairman of the House Committee, move a resolution to extend the period for amending the two pieces of subsidiary legislation. This is not the first time that two or even more pieces of subsidiary legislation are moved in the same motion to extend their periods of amendment. If there are problems with this practice, I believe next time I will confirm with colleagues at the House Committee meeting whether the pieces of subsidiary legislation should be moved under the same motion or separately under different motions. Thank you, President.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Ms Miriam LAU will move a motion under Rule 49E(2) of the Rules of Procedure to take note of Report No. 19/10-11 of the House Committee laid on the Table of the Council in relation to the Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2011 and the Securities and Futures (Financial Resources) (Amendment) Rules 2011.

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

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

MS MIRIAM LAU (in Cantonese): President, in my capacity as Chairman of the House Committee and in accordance with Rule 49E(2) of the Rules of Procedure, I move the motion as printed on the Agenda to enable Members to debate the Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2011 and the Securities and Futures (Financial Resources) (Amendment) Rules 2011.

President, I so submit.

Ms Miriam LAU moved the following motion:

"That this Council takes note of Report No. 19/10-11 of the House Committee laid on the Table of the Council on 13 April 2011 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2011 (L.N. 28/2011)
(2)	Securities and Futures (Financial Resources) (Amendment) Rules 2011 (L.N. 29/2011)."

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

MR JAMES TO (in Cantonese): In my capacity as Chairman of the Subcommittee on Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2011 and Securities and Futures (Financial Resources) (Amendment) Rules 2011 (the Subcommittee), I now report to the Council on the deliberation of the Subcommittee.

President, my speech will be as concise as possible. However, as the amendments concerned are technical in nature, my script has a total of six pages.

The purpose of these two pieces of subsidiary legislation is to establish a regulatory regime in Hong Kong for credit rating agencies (CRAs) to enhance investor protection, fulfil international obligations and to enable credit ratings prepared by CRAs in Hong Kong to continue to be serviceable in other jurisdictions.

According to the authorities, through those two pieces of subsidiary legislation, both corporate CRAs in Hong Kong and their individual rating analysts will be subject to the licensing regime under the Securities and Futures Ordinance (the Ordinance). These regulated CRAs and rating analysts will also be subject to all general licensing obligations. This will also enable the Securities and Futures Commission (SFC) to publish a Code of Conduct for Persons Providing Credit Rating Services (the CRA Code). The proposed regulatory regime meets the requirements laid down by the G20 and is generally consistent with the regulatory models that have been adopted (or are in the process of being created) in other jurisdictions (including the United States, the European Union and Japan).

The Subcommittee supports the policy objectives of the two pieces of subsidiary legislation. During the deliberation, the Subcommittee has requested the authorities to provide details of the proposed regulatory regime, including the licensing criteria, sanctions for breach of relevant legislative requirements or other regulatory obligations, criminal and civil liabilities for problematic credit ratings, as well as measures to prevent and avoid conflicts of interests during the rating process.

The Subcommittee noted that if a regulated person is found to be guilty of misconduct or not fit and proper to remain a regulated person, the SFC may take disciplinary actions against that person. Such disciplinary powers include suspension or revocation of a licence; public or private reprimand; ban from the industry permanently or for a stated period; and the imposition of a fine. In general, the SFC will be guided by the CRA Code in considering whether a licensed CRA or rating analyst satisfies its/his regulatory obligations and remains fit and proper to be licensed.

At the request of the Subcommittee, the authorities have provided an updated draft CRA Code to the Subcommittee. The authorities advised that the CRA Code is primarily based on the Code of Conduct Fundamentals for

Credit Rating Agencies issued by the International Organization of Securities Commissions (IOSCO) in May 2008. However, the CRA Code has incorporated additional requirements that are dictated by the regulatory difference that exist in Hong Kong, and some additional requirement that have been introduced in other jurisdictions.

The Subcommittee has considered how the terms "misconduct" and "fit and proper" were defined in the Ordinance under the existing regulatory regime, the rules or guidelines that the SFC would follow in making determinations in disciplinary proceedings, as well as the scope of misconduct. The authorities informed the Subcommittee "misconduct" and "fit and proper", the rules or guidelines that the SFC would follow in making determinations in disciplinary proceedings, as well as the scope of "misconduct" The authorities informed the Subcommittee that the term "misconduct" is defined in section 193 of the Ordinance, whereas the definition of the term "fit and proper" was set up in section 129 of the Ordinance. In exercising its powers to instigate disciplinary proceedings, the SFC is required to follow the procedural requirements stipulated in section 198 of the Ordinance. The SFC has also developed various guidelines to enhance fairness and certainty of the disciplinary proceedings. Any person who is aggrieved by a decision of the SFC may apply to the Securities and Futures Appeal Tribunal (the Tribunal) for a review of the decision. If a person is dissatisfied with the Tribunal's decision, an appeal can be made to the Court of Appeal.

The Subcommittee has carefully examined whether the proposed definitions of "credit ratings", "debt securities" and "providing credit rating services" for inclusion in Schedule 5 to the Ordinance is clear and precise enough to reflect the intended scope of the newly proposed regulated activity and to avoid giving rise to any loophole.

Regarding the requirement of licensed corporations to have a paid-up share capital of HK\$0 and a minimum amount of required liquid capital of HK\$100,000, the Subcommittee has expressed concern about the propriety of these two financial resources requirements. The Administration and the SFC explained that the purpose of the financial resource requirements under the Financial Resources Rules is to ensure a licensed corporation has sufficient financial resources to carry on its regulated activity. The amount of liquid capital that is maintained by a licensed corporation is not intended to constitute a

pool of funds from which clients might potentially be compensated. The IOSCO has not introduced any minimum capital requirements for the CRA. The Government pointed out that this approach is generally accepted on a global basis.

The SFC has stressed that the CRAs will not hold client assets, thus the capital requirements imposed on the CRAs should consist with those imposed on other types of licensed corporations carrying on regulated activities without holding any client assets. The SFC considers increasing the capital obligations of the CRAs might well cause them to relocate the activity of providing ratings to another Asian jurisdiction. This is not in the best interest of Hong Kong, which will certainly affect employment or other economic activities. Furthermore, the SFC sees no direct correlation between capital requirement and rating standards.

I had suggested the authorities to consider requiring the CRAs to take out professional indemnity insurance. In this connection, the SFC has advised that there is no general professional indemnity insurance requirement for the CRAs in other comparable jurisdictions. However, the Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission provide that a licensed or registered corporation is expected to have adequate insurance to protect it from operational risk. Thus, although the CRAs will be required to have insurance cover for different types of business exposures, including but not limited to professional negligence, fidelity and replacement insurance.

In order to safeguard the interests of investors, the SFC has accepted the recommendations of the Subcommittee, requiring that the CRAs to disclose all credit ratings that have been made on a financial product or issuer under certain circumstances so as to prevent the product issuers from hiding the unfavourable credit ratings and to include the appropriate provisions in the CRA Code.

Noting that the proposed CRA regulatory regime would not regulate the activity of providing private ratings, the Subcommittee has requested the authorities to put in place appropriate measure to avoid possible abuse of this unregulated realm of activity. The SFC has accepted our proposal and revised the relevant provisions of the draft CRA Code, requiring the CRAs to include in the relevant service agreement a provision to prohibit their clients from disseminating the private ratings and related information to the public.

Last of all, the Subcommittee supports these two pieces of subsidiary legislation. Thank you, President.

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

MR CHAN KAM-LAM (in Cantonese): President, since the reunification of Hong Kong 14 years ago, we have been battered by a number of financial turmoil. To uphold Hong Kong's status as an international financial centre, successful market supervision has been exercised. However, we cannot merely rely on the existing system or legislation to supervise the CRAs, particularly when the international financial products and listed companies have become more internationalized at present. Legally speaking, it is not easy for us to fully understand the accuracy of the corporate or product ratings from the market information.

Thus, over the past years, the market has always raised serious doubts about the CRAs in times of financial turmoil — how can their rating criteria convey an accurate message to the market? How can these CRAs genuinely inform investors that a certain organization was rated in accordance with the information collected? We therefore consider it necessary to regulate the CRAs a set of rules.

Following the financial tsunami in 2008 or 2009, countries began to search their souls over market supervision. The G20 recently considered that more should be done to make the market more disciplined. Thus, we consider it essential to impose regulation on the relevant CRAs. The Democratic Alliance for the Betterment and Progress of Hong Kong thinks that, apart from statutory regulation, constant review is also important in the future day-to-day operation. We believe investors can only have greater protection if proper regulation of the CRAs is in place to ensure that market information can truly reflect the accuracy of listed companies or their products. Therefore, we support this legislation. Thank you, President.

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first of all, I wish to thank the Subcommittee for supporting these two legislative amendments. The purpose of these amendments is to establish a regulatory regime in Hong Kong for credit rating agencies (CRAs) to achieve two important purposes:

Firstly, to enhance investor protection — The new regime would help ensure that the credit ratings, to which the public has access, are independent, objective and of appropriate quality so that rating users will make informed investment decisions.

Secondly, to fulfil international obligations and enable credit ratings prepared by CRAs in Hong Kong to continue to be serviceable in other jurisdictions.

Under the new regime, a new type of regulated activity — that is, "Type 10: providing credit rating services" has been included in the Securities and Futures Ordinance (the Ordinance). The CRAs in Hong Kong and their individual rating analysts must be licensed and subject to all general licensing obligations. The Securities and Futures Commission (SFC) would also issue a new code of conduct basing on the codes issued by the International Organization of Securities Commissions, requiring that all credit rating activities must comply with the principles of integrity, independence, transparency and confidentiality. This regulatory model meets the requirements laid down by the G20 and is generally consistent with the regulatory models that have been adopted (or are in the process of being created) in other jurisdictions.

During the deliberation of these two pieces of legislation, the Subcommittee has provided valuable opinions to help refining this new regime. For instance, the Subcommittee held that the SFC should require the CRAs to include in the relevant service agreement a provision to prohibit their clients from disseminating the private ratings and related information to the public. We agreed to this proposal and the SFC has undertaken to include a provision in the Code of Conduct for Persons Providing Credit Rating Services to impose this obligation on the CRAs.

The relevant legislative amendments will come into effect on 1 June this year. The SFC would seize the time and publish the Code of Conduct for

Persons Providing Credit Rating Services in the gazette to set out the details of licensing, with a view to expeditiously issuing licences to the existing CRAs and rating analysts.

Thank you, President.

PRESIDENT (in Cantonese): Under Rule 49E(9) of the Rules of Procedure, I shall not put any question on the motion.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 4 May 2011.

Adjourned accordingly at ten minutes past Ten o'clock.

Appropriation Bill 2011

Committee StageAmendments to be moved by the Financial Secretary

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	By deleting “\$326,809,154,000” and substituting “\$333,909,154,000”.
2	By deleting “\$326,809,154,000” and substituting “\$333,909,154,000”.
Schedule	(a) By deleting “301,809,154,000” and substituting “308,909,154,000”.
	(b) By deleting “Total 326,809,154,000” and substituting “Total 333,909,154,000”.