

# OFFICIAL RECORD OF PROCEEDINGS

Thursday, 22 March 2012

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 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, G.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, J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

THE HONOURABLE IP WAI-MING, M.H.

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

DR THE HONOURABLE PAN PEY-CHYOU

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

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

**MEMBERS ABSENT:**

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

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

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

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE STEPHEN LAM SUI-LUNG, 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

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

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.  
SECRETARY FOR THE CIVIL SERVICE

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

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

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

THE HONOURABLE RAYMOND TAM CHI-YUEN, J.P.  
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

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

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****Second Reading of Bills****Resumption of Second Reading Debate on Bills**

**PRESIDENT** (in Cantonese): Good morning. Council now resumes to continue with the debate on the Second Reading of the Appropriation Bill 2012.

**APPROPRIATION BILL 2012****Resumption of debate on Second Reading which was moved on 1 February 2012**

**MR PAUL CHAN** (in Cantonese): Good morning, President. Good morning, Honourable colleagues. Since I already mentioned before that this year's Budget is heavily tilted towards the middle class and lacks long-term vision and planning in social development, I will not dwell on it again today.

President, today, I would like to focus on two relatively macroscopic issues. The first issue is on how we can put to good use the fiscal surplus painstakingly accumulated by Hong Kong people. All along, some colleagues in this Council and I have been calling on the Government relentlessly to review and reform the investment of its fiscal reserves, increase rates of return, and use the reserves to assist the development of emerging industries. But regrettably, there has been no positive response from the SAR Government. In the face of the fast-changing external environment and keen competition from our neighbours nowadays, it is indeed necessary for Hong Kong to be on the alert at all times and learn in a humble manner from others' strengths in the hope of doing its best. In this connection, I would like to examine with Members how our neighbouring rival, Singapore, invests its fiscal reserves.

First of all, why should a review and reform be carried out in Hong Kong on this front? The fiscal reserves of the SAR Government are managed by the Hong Kong Monetary Authority (HKMA) which has all along emphasized that its

goals of assets management are to maintain financial stability, uphold the stability of the linked exchange rate between the Hong Kong dollar and the US dollar, and make good preparations to defend the linked exchange rate against impacts. As a result, the HKMA's investment strategy is extremely conservative and its choice of investment tools is subject to many constraints, with most of them being US dollar assets. Consequently, the SAR Government and the HKMA often cite the aforesaid reasons as a "shield" in the face of criticisms about poor investment returns. Moreover, they adopt a perfunctory approach in responding to the proposals put forward by this Council and other stakeholders on adjusting its investment strategy or expanding its categories of investment assets.

President, the balance of the Exchange Fund, which stood at approximately \$190 billion on 31 December 1997, has more than doubled by \$377.9 billion over the past decade or so to more than \$567.9 billion in December 2011. Is it necessary for the Fund to be accumulated to such a high level? To what extent should the Fund be increased to enable us to cushion impacts on the linked exchanged rate? Has our accrued Fund reached an exceedingly high level? In proposing a motion on "Reviewing public finances policy" last year, I already stated my position, and so I will not elaborate on it again today. President, the Fund aside, the Government's fiscal reserves also reached more than \$650 billion as of end-December 2011. In other words, the total assets managed by the HKMA are worth more than \$1,200 billion. Nevertheless, what is the rate of return made by the HKMA over the past 18 years? The answer is 5.6%, which is actually a mere 3.8% net of inflation.

How does Singapore invest its money? I would like to examine its experience with Members. The Singaporean Government has divided its fiscal reserves into three portions for management: First, the Monetary Authority of Singapore (MAS); second, the Government of Singapore Investment Corp (GIC); and third, the well-known Temasek. As of end-March 2011, the MAS, the GIC and the Temasek accounted for S\$295 billion, US\$100 billion (equivalent to S\$126 billion) and S\$193 billion at 48%, 31% and 21% respectively as well as S\$614 billion in total.

The MAS has stated clearly that, given its central bank status, its investment strategy is the most conservative and so it prefers low-risk investment tools which can be encashed easily. As for the GIC, given its role as a

professional fund management institution, its goal is to secure good long-term returns through investment to preserve the purchasing power of its fiscal reserves in the international market. Despite its relatively conservative investment strategy, it has diversified its investments into different categories, with most of them being assets on the open market and some in alternative products such as private equity funds, real estate, and so on, though the realization capacity and flexibility of these assets are relatively low.

As Members are aware, the Temasek, although being a government-owned company, is operating on commercial principles with its investment focused mainly on buying shares of other companies and investing in stocks to create value for shareholders in a long-term and sustainable manner.

During the past two decades as of end-March 2011, the GIC has seen its actual return rate standing at 3.9% net of inflation and its average annual nominal return rate at 7.2% disregarding inflation. During the past two decades, the Temasek has seen its average value created for shareholders, that is, its return rate for shareholders' fund, reaching 13%.

In comparison, the average annual rate of return made by the HKMA over the past 18 years — I can quote only the data over the past 18 years for comparison, because I cannot find all the information about the HKMA over the past two decades — was a mere 5.6%. The Singaporean Government has substantially increased the return rate for its fiscal reserves after handing approximately half of the reserves to the GIC and the Temasek for investment. The HKSAR Government, given its extremely conservative approach, has indeed disappointed the taxpayers and the disadvantaged groups in Hong Kong. If the Government can set up an independent investment organ in addition to the HKMA and assign half of its fiscal reserves, which stand at approximately \$330 billion, to it for investment, assuming that it can make an additional annual profit of \$16.5 billion at a return rate higher than the 5% of the HKMA, then more can be done in alleviating poverty and on many other fronts. Should the Government opt for "handing out money", every person in Hong Kong can even receive \$2,000 every year. I really hope that the SAR Government can make some improvement and refrain from sticking to the old rut, or else it is indeed doing Hong Kong people a disservice.

In passing, President, I would like to say that Singapore's constitution was amended in 2008 to account half of the returns (net of inflation) made by the MAS and the GIC to the recurrent revenue and retain the other half. As regards the investment made by the Temasek, half of the dividends received by the Government from the Temasek is accounted to the recurrent revenue to fund government expenditure. The other half will be retained to ensure that Singapore will provide for a rainy day and not exhaust its "old capital".

President, I would also like to point out that the Singaporean Government was in the reds in five of the past 10 years, but managed to break even as a whole over the past 10 years. Given that its budget surplus accounts for a mere 0.1% of its GDP, it means that it will channel most of its annual revenue to society rather than accumulating fiscal surpluses blindly. Meanwhile, its expenditure is used to strategically support social development according to its policy objectives for such purposes as alleviating poverty, improving the work income of the elderly or the employment of people with disabilities, and so on. This is very different from Hong Kong in which sweeteners are handed out every year or money is distributed across the board to everyone.

President, the second relatively macroscopic issue I wish to discuss with Members today concerns why public grievances have continued to rise year after year despite the Government's year-on-year increase in expenditure. In paragraph 161 of the Budget, the Financial Secretary said, and I quote, "Government expenditure is estimated to increase from more than \$230 billion in 2007-2008 to more than \$390 billion in 2012-2013, a rise of nearly 70%, which is significantly greater than the nominal GDP growth of 21% over the same period. Recurrent expenditure is estimated to grow by 33% during this period." (End of quote). President, looking at these figures, Hong Kong people should feel blissfully happy. But why are there so many grievances in the community?

I have looked up the Government's audited accounts over the past seven years and the newly announced Budget and made some analysis. Government expenditures during the period between 2008-2009 and 2012-2013 are (in chronological order) \$315.1 billion, \$289 billion (fallen), \$301.4 billion, \$366.4 billion and \$393.8 billion, or \$1,665.7 billion in total or an average of \$333.1 billion per annum, representing a rise of 41.9% over the year 2007-2008.

Nevertheless, a closer look reveals that government expenditure can actually be divided into two parts, namely operating expenditure and non-operating expenditure, with the latter used mainly for infrastructure investment. If non-operating expenditure is deducted from the government expenditure cited by me just now on a year-on-year basis, we will get the operating expenditure of the years concerned. During the period between 2008-2009 and 2012-2013, the Government's operating expenditures are (in chronological order) \$258 billion, \$234.4 billion, \$239.3 billion (fallen for two years in a row), \$297.8 billion and \$315 billion, or \$1,344.5 billion in total or an average of \$268.9 billion per annum, representing a rise of 31.4% over the year 2007-2008.

Nevertheless, President, operating expenditure can also be divided into recurrent expenditure and non-recurrent expenditure. If non-recurrent expenditure is deducted from the operating expenditure quoted by me just now, what are the recurrent expenditures over this five-year period? President, they are \$214.1 billion, \$221.2 billion, \$223.2 billion, \$244.1 billion and \$264.4 billion respectively, or \$1,167 billion in total. A comparison of the figures over these years with that of the previous year reveals increases of a mere 7.4%, 3.3%, 0.9%, 9.4% and 8.3%, which are a far cry from 30-odd percentage points. The annual increases may be even smaller if inflation rates of the corresponding years are deducted from these figures. In other words, President, the Government's new increases in annual recurrent operating expenditure are actually not substantial. The so-called substantial increases in operating expenditure over the past seven years were attributed mainly to one-off measures and the funding allocated to or injected into various funds and pilot schemes.

According to information, during the period between 2008-2009 and 2012-2013, the funds allocated or injected by the Government into various funds and pilot schemes, one-off expenditure and one-off tax concessions are expected to cost the Government \$88.6 billion, \$87.2 billion and \$99.3 billion respectively, or a combined total of \$275.1 billion. Compared with the increase of a mere \$169.7 billion in recurrent operating expenditure during the same period, I think the Government is putting the cart before the horse. Furthermore, President, the funds allocated by the Government to various pilot schemes are actually extremely scattered and fragmented. Members should also note a special characteristic of the Government's injections into a fund, and that is, the entire sum of the money injected might not be used up in the year. For instance, only a

very small portion of the \$21.6 billion allocated to the West Kowloon Cultural District Development Project in 2008-2009 has been used so far. There are also instances in which only the returns on investments made after injections are used to meet expenditure. In this connection, the Beat Drugs Fund is a case in point. Such injections have failed to achieve adequate stimulating effect. On the other hand, neither can one-off tax concessions pool resources. As a result, social development has suffered a severe setback. President, if half of the \$270.1 billion can be used for long-term planning for allocation to different policy areas, I believe the result will definitely be much better.

President, over the past couple of years, we have seen on numerous occasions the Government's administration detached from public sentiments, thus resulting in the accumulation of public grievances. Although the views relayed by Members of this Council may not be entirely correct, to a certain extent they can still reflect public opinion because of their frequent contact with members of the public. Moreover, they have experienced the election and they must engage themselves in the communities and solicit views in a humble manner. Apparently, senior government officials also need to make more visits to the communities. Nevertheless, they must avoid fanfare. Instead, they should engage themselves in the daily lives of the people and the homes of the masses, so as to gain an understanding of public sentiments and truly feel for themselves how the people live their lives.

Thank you, President.

**PROF PATRICK LAU** (in Cantonese): President, I do not quite understand why the budget every year fails to make accurate forecasts of government income and expenditure, and the mistakes are so serious. In the forecasts of income and expenditure — actually, the most important part is income, where the discrepancy is so glaring that it is a matter of tens of billion dollars. It can be said that mistakes in the forecasts are made every year. Actually, are there ways to ensure that a budget with some more accurate forecasts can be compiled? Should we not consider the setting up of a new system under which various methods of forecast are used so that such glaring errors can be prevented?

The Budget this year is the last budget compiled by the current-term Government. Financial Secretary John TSANG has spoken at length about public finance in retrospect and his principles of public finance management. However, we can see and as pointed out by many Honourable colleagues, there seems to be a lack of a long-term fiscal policy which has got vision. Despite the fact that the Financial Secretary has spent much time on holding consultations on government expenditure, there are still people who are not happy and also think that many people who are in genuine need of help cannot benefit.

Before the budget for each year is released, I would consult my sector and relay the views expressed to the Financial Secretary. After the budget is released, I would also hold some forums and invite members from my sector to comment on the budget. I have also done so this year. I am very grateful to Prof K C CHAN, the Secretary for Financial Services and the Treasury, to attend the forum held for my sector and we had a good time exchanging views.

On the whole, people in the sector told me that they would support in principle the Budget this year. However, many ideas were also expressed on how improvements can be made. I have collated the views from my sector and I hope that even if these ideas are not accepted by the current-term Government, they can be put into practice by the Government of the following term.

The overall expenditure proposed in this Budget already shows a year-on-year rise. But the rate of increase cannot be too great at one time and it is hard to cover everyone in society who thinks that he or she should be given assistance. So after the delivery of the Budget, we can still find many of these so-called "N have-nots" who do not benefit from the subsidies or concessionary measures proposed by the Government.

There are still people who are not covered even when we resort to using the Community Care Fund. In my opinion, to solve this problem, a special fund for these "N have-nots" may have to be set up to plug the loopholes and enhance the protection accorded to the grassroots by the social security safety net. The most important thing is that there is still room for improvement after the Budget is delivered — I know that we can only vote in approval or disapproval of it, but we cannot make any improvements to the Budget — and this situation has really offset the criticisms levelled against the Budget itself. I therefore hope that if a

dedicated fund for the "N have-nots" is to be set up to offer them financial assistance, it can secure the support of many citizens and hence the Budget would gain wider acceptance in society.

The Budget proposes to make a significant injection of \$10 billion into the Samaritan Fund to finance the medical expenses of patients. I think it is a good idea to provide long-term financial assistance to eligible persons in the form of a fund. If a fund for the "N have-nots" can be set up in the same way, I am sure it is possible to provide assistance to many people in need who are not patients. Such kind of assistance can be provided to these people in a short time and in this way the financial pressure of the grassroots can be reduced instantly.

The Government should make more publicity and educational efforts and the people can thus be taught to choose the assistance fund which best suits them. And more NGOs should be encouraged to help the needy people make their applications. In this way, these funds can be used more effectively to help people in need. This can also avoid the present situation where, despite some funding having been made to certain funds but due to the many barriers imposed and the fact that people find it inconvenient to make applications, much money is left in these funds with nobody to take up. On the other hand, the Government should also conduct a review to see if the thresholds of the funds are too high and whether those who need help are prevented from getting any financial assistance.

Apart from the needs of the grassroots, I think we should also pay attention to the problems that are associated with an ageing population. The Government should take the initiative to do more in showing care and concern for elderly persons in the community. Besides helping elderly persons to age at home, the most important point of all is to show genuine care for the elderly. Government departments should take the lead to recruit members to the volunteer teams. These teams can pay visits to elderly persons living in the communities and help them apply for assistance from these funds or take care of the daily needs of these elderly persons. In addition to distributing food, these teams can also look after the small details in the life of the elderly such as meeting their various needs. As suggested by members of my sector, these needs are, for example, phones with large character display, calendars with large character display, safety alarm service, and so on. With all of these, the elderly can truly be helped by making use of the funds.

It is the Government's policy to encourage the elderly to age at home. But today when the current-term Government is about to finish its term, we have yet to see anything being done to formulate an elderly housing policy advocated by me frequently. I wish to stress that apart from elderly housing for the affluent elderly, there should also be other options, including an option which resembles that of public housing. There should be inexpensive rental flats available for the elderly equipped with medical services and facilities. Eligible elderly persons can apply for such flats so that they can enjoy some privacy and spend their twilight years with dignity. Most importantly, these flats should be located in places with convenient transport. Why is that important? It is because their friends and relatives may come to visit them and their children can come to pay them a visit often. In this way, the idea of ageing at home can become a reality.

I support the increase in funding to reduce the waiting time for places in residential care homes for the elderly (RCHEs). President, I wish to declare here that I have taken part in the work of many RCHEs. The Government has done quite a good job in providing a good environment in these RCHEs. If Members have watched the award-winning movie *A Simple Life* — I do not know if the President has watched it — the movie is a true depiction of the problems found in the elderly homes. It turns out that the conditions in many elderly homes are poor and so if the Government really wants to do something to acknowledge the contribution these elderly persons have made in their younger days, it should do something about elderly housing. The Government should input more resources to make improvements, be they in the RCHEs or in terms of elderly housing. This will enable the elderly persons to live a decent and dignified life.

As a matter of fact, the next-term Government should undertake a serious review of the housing policy as a whole. Apart from meeting the housing needs of ordinary families and elderly persons, it is likewise important for the young persons to have their own independent living space. The idea of building hostels for single youths which I have put forward to the Government should be implemented very soon. This can give the young persons peace of mind and they will not be troubled by the problem of finding a place to live. They can thus better use the time on learning or further studies and can work hard to lay a good foundation for their career. Of course, this is also some sort of a revolving door, that is, when they have become financially stable, they would not need this kind of subsidized housing anymore.

I hope that with respect to these hostels for single youths, the Government can adopt an approach which will better suit the mentality of the young people. The flats produced should truly meet their housing needs. These flats should not be too fancy and they should be simple in design and flexible enough. The most important elements are that they can have Internet access and do not have to share the bathroom with other people. As for the flat size, it would be fine if it is 200 sq ft or 300 sq ft. The rent should be affordable so as to encourage them to save enough money to buy a home later.

Design in architecture is very important when it comes to elderly housing or youth hostels. Those who live in them should find themselves in a cozy environment. Elderly persons need signs with large characters because they cannot see things clearly. Often barrier-free design is required. The young people need more of a smart design. We cannot use the old form and style of design like we used to. I would think that we can hold some design competitions. I often say that we should never mix design with construction. With this Complex, for example, we come across so many problems. Many places in my office need numerous improvements. I do not know how the bill can be paid in the end when we have overspent so much. We must separate design from construction. Only by doing so can we bring in more innovation and concepts in design.

This should be the approach for the new Home Ownership Scheme flats and the flats to be produced under the My Home Purchase Plan. We must encourage design and innovation, bring in eco-friendly architecture and greening space. We may have "no frills" design, but there must be quality in it. We should not take the approach of giving a job to the party which offers the lowest price. Quality in the living environment depends very much on the community facilities available. And so the projects should match the entire community concerned. Plans for community facilities like libraries, hospitals, community centres and cultural facilities should be well-devised beforehand. In fact, a healthy housing and land policy should be able to offer a steady supply of homes suited to the needs of the market. This will prevent property prices from going up and down like a roller-coaster and soaring to such a level that nobody can afford them. So I think the annual return from land sales should be kept at a steady level and it should be more predictable, instead of having such glaring discrepancies like we have because we cannot forecast the profits that can be gained from land sales.

Had there been more accurate forecasts in the budget, there would not have been so many mismatches of resources and imbalances in planning. If this difference of some tens of billion dollars in surplus can be used in a worthwhile manner, I think we can instantly introduce 15-year compulsory education. There will be no strain on government finance once 15-year compulsory education is implemented and there will be no more delays in this matter.

President, a budget must be able to envisage economic conditions five or 10 years from now and it should have matching fiscal policies to cope with it. However, it seems that the budgets we have had in recent years lack any forecast and commitment in the long term. They seem to be only fulfilling the goals set by the current-term Government, devoid of any continuity. One example is from my trade and I know it very well. Previously in the architecture profession, many professionals especially landscape architects were deprived of job opportunities because many works projects were postponed. Now although many works projects have commenced, the shoddy forecasts made by the Government have resulted in a situation where jobs are available but no professionals can be found to fill them. Manpower training in this regard is hampered by the inaccurate projections made. The Government as a responsible one must compile a budget which is accurate in a comprehensive manner. Knowing full well that infrastructural projects in its public works programme must be completed, then it must put in more resources and do a good job in manpower training to tie in with them.

Based on the projections made on the population of Hong Kong, in 2039 the population will have increased to about 8 million to 9 million. I hope that the Government can make accurate projections on the needs of these infrastructural projects and other works projects based on population growth. It must work out the economic growth over the next five to 10 years. What should be considered are not just the prices but also economic problems of a global nature, prices on the Mainland, and so on. This is because construction costs in Hong Kong are affected by the prices of steel, iron and cement on the Mainland.

We must do a good job in infrastructural projects. We must be careful about the planning and we should consider the business environment faced by companies of various sizes and try to strike a good balance. We should try our best to avoid the present situation where the big companies get all the major works projects while the medium- and small-sized companies can only be

second-class consultants under the subcontracting system. The end result is that the rich will become richer and the poor will become even poorer. So this is not a problem faced by the people of Hong Kong alone but also by the professionals. There is inequality because of the serious imbalance in the distribution of financial resources by the Government.

President, the Donald TSANG Administration has left a handsome amount of reserves to the people of Hong Kong and this must be praised. I hope very much that the Government of the next term can see farther into the future, make more accurate forecasts and achieve a better balance in income and expenditure. When there appears any need in society, it should plough back resources and use them to help the people. It must not hoard money in public coffers and act like a miser. As the policy address puts it, the Government must go from strength to strength and achieve its policy objectives. And it must compile a budget that can meet the criteria of sustainable development. Thank you, President.

**MS STARRY LEE** (in Cantonese): President, this year's Budget is the last budget of this Government. In this Budget, the Financial Secretary has made a conclusion on the revenue and expenditure of the SAR Government over the past five years. To sum up, the finance of this Government has three things in plenty and one thing that is lacking. That is, there are plenty of surpluses, plenty of reserves, and plenty of candies being handed out but regrettably, support is lacking. This goes to show that although the financial position of the SAR Government is good, public grievances have not been soothed as a result. This phenomenon is neither healthy nor normal.

Let me start with the three things in plenty. The five budgets compiled by the Financial Secretary during his term of office have all arrived at a surplus ranging from the lowest of \$1.45 billion to the highest of \$75.12 billion. The accumulated fiscal reserves have progressively increased year on year from \$484.9 billion to \$662.1 billion recently, representing a growth of 37% and a year-on-year increase of 8% on average. Given a satisfactory financial position, it is basically sensible and reasonable for the Government to return wealth to the people by handing out candies. However, the popularity of the Government or the Budget has not risen as a result of the giving out of candies and on the contrary, many criticisms have been attracted. After the release of the Budget,

the Government must have heard a lot of criticisms which are mainly about the Government's failure to address the structural problems of Hong Kong in a focused manner.

The community has a lot of misgivings about the philosophy of financial management of the SAR Government and the Financial Secretary. Many people have asked us why the public still have such great grievances and the Government's popularity has remained unsatisfactory despite the fact that Hong Kong has such an abundant fiscal reserve and the Government has dished out so much money. Why has the support for the Budget remained comparatively low in this Council?

Despite the imminent change of the Government, the SAR Government must think about these questions because so long as no solution is proposed to address the people's discontent, I believe it will be very difficult for the SAR Government to relieve the social grievances no matter how sound the Government's finance will be and how much more money will be handed out by the Government in future.

President, let us first look at the economic background against which the budget was formulated over the past five years from a macro perspective. During this period of time, there had been significant changes in the economy of Hong Kong. The financial tsunami that happened in 2008 dealt a heavy blow to the Hong Kong economy but thanks to the fast recovery of the Mainland economy, the size of our real economy in the second quarter of 2010 surpassed its pre-tsunami peak, and the economy can be said to have achieved full recovery. While the economy has taken a breather, it does not mean that the people's living has improved or they can benefit from the economic growth. It is because the property market of Hong Kong can be likened to an unbridled horse running wild, as property prices have been rising all the time since the middle of 2007, and an accumulated increase of as much as 65% was recorded early this year, making it difficult for the young generation and even the middle-class people to buy a home. At the same time, inflation has persistently remained on the high side and the Consumer Price Index (A) has surged by 17%. The wage increase of many wage earners cannot catch up with the inflation rate. Added to this is the failure of the Government to effectively address such problems as an imbalanced structure of industries and wealth disparity, making the situation become

increasingly serious. All in all, the grassroots and even many middle-class people have not felt the joy of economic growth over the past five years.

Against this social background, it is only natural for the public to harbour expectations for the Budget, hoping that it could alleviate the people's plights through redistribution of wealth. But judging from its popularity, the Budget has not met these expectations. Why?

President, I think the reasons can be summed up in three points as follows.

First, the Financial Secretary is too conservative in making his forecasts for public finance, as the surplus was always seriously underestimated. In recent years, it is increasingly clear that the budget has overestimated the expenditure but underestimated the revenue. In the past four financial years, the Financial Secretary invariably projected a deficit in the actual outturn in each budget but a surplus was eventually recorded every time. The year 2010-2011 saw the greatest discrepancy with the underestimation exceeding \$100.2 billion. The year 2008-2009 was the most accurate but the underestimation still reached \$9 billion. The discrepancy was as much as \$60 billion on average annually. In other words, the surplus recorded annually due to underestimation is almost enough for developing another Shatin to Central Link.

What is the problem if the surplus is underestimated? The Government has all along upheld the principle of keeping expenditure within the limits of revenues in its spending, and seldom does it "spend money of the future". A serious underestimation of the surplus means that government expenditure in various areas will be compressed correspondingly. Such being the case, whether in respect of helping the disadvantaged, providing support to the middle-class people or developing the economy, the Government's input and the strength of its facilitation definitely cannot meet the actual needs of the community. No wonder the Financial Secretary has often been criticized as a miser.

Strangely enough, while the revenue from land is certainly subject to great fluctuations depending on the economic environment, profits tax and salary tax are actually relatively easy to project. Why would the Financial Secretary still underestimate these revenues by a large margin? While we find this incomprehensible, it is inevitable for people to suspect that the Government might, through an underestimation of revenue, seek to counteract the political pressure from various sectors of the community calling for increased public

expenditure and create the effect of a pleasant surprise when it is eventually announced that a deficit budget turns out to have recorded a surplus.

A wrong estimate of the surplus aside, another factor causing social grievances is that the Government is often criticized by the public for failing to put public coffers to good use by taking a targeted approach to tackling problems. In fact, reviewing the pattern of the Government in spending public coffers over the past few years, apart from the measure of handing out money to the public direct that made the people feel the benefit soon afterwards, it might take a long time for the people to feel the benefit of the other initiatives. We have seen that in recent years, the Government very much likes to set up or make injections into funds of various names, spending the money for certain designated purposes.

If we analyse the five budgets compiled by the Financial Secretary during his term of office, we will find that the setting up of funds or the making of injections into funds has incurred an expenditure to the tune of \$60 billion. This has not even included the \$5 billion earmarked for setting up the Community Care Fund (CCF) as proposed in the 2011-2012 Policy Address. These funds are set up under many different names. For those relating to education, there are the Matching Grant Schemes for post-secondary institutions, the HKSAR Government Scholarship Fund, Self-financing Post-secondary Education Fund, and research funds set up exclusively for academic researches in the higher education sector; for those relating to healthcare, there are the Health and Medical Research Fund and the Samaritan Fund; besides, there are also the Elite Athletes Development Fund, Green Transport Fund, and Partnership Fund for the Disadvantaged.

With regard to setting up funds to respond to the community's aspirations, I have three points to make. First, these funds do not come under recurrent expenditure and there is no guarantee for their continuity year after year. Therefore, these expenditures made by the Government for specified purposes have given people an impression of inadequate government commitment. Besides, whether or not the actual progress in the operation of the funds can answer public aspirations has also given cause for concern. Take the CCF as an example. A number of long-announced plans have yet to be launched to date. They include the provision of a subsidy for low-income elderly people living in rented private housing, an allowance for denture for the elderly and after-school care support services. People in need feel very anxious and hope that the CCF

can sense the urgency of the people and that these plans can be implemented at a faster pace. Moreover, even though an enormous amount of money is injected into a fund, the equity injected is set aside as the principal, meaning that the money that can truly be spent will only be the investment return of the fund, which is far less than the amount expected by the public or the equity injected into the fund as announced by the Financial Secretary. Take the CCF as an example again. Discounting donations from the commercial sector, the injection by the Government amounts to \$5 billion. While the fund can theoretically be spent in the light of needs, the actual operation of the fund mainly relies on the investment return and income from interests. From this angle, funds are actually another means to maintain a reserve, because funds will not be able to achieve within a short time the objectives set by the Government in announcing the budget.

In fact, as at November last year, only around \$111 million were actually spent out of the CCF (excluding the amount involved in handing out money to the new arrivals).

However, what the public consider most unsatisfactory — I believe the Financial Secretary can feel it too — is that the Financial Secretary has failed to properly address the needs of the "N have-nots" over the years after taking up his office. Every time after his delivery of the budget (except for the one that handed out money), members of the community would make this criticisms against him.

To address this problem, this Government and the new-term Government must rethink and break the several myths that I am going to put forth in the following.

First, must public expenditure be limited to below 20% of the Gross Domestic Product (GDP)? There is nothing wrong with the principle of fiscal prudence, but as the population ages, the expenditure on social welfare is set to rise continuously in future. To cope with the new social developments, is there a need to review afresh this conventional benchmark of keeping expenditure below 20% of the GDP?

Second, seriously erroneous public finance forecasts. As I said earlier on, it is undesirable that the Government underestimates revenue and overestimates

expenditure every year which directly compresses various expenditure items relating to the people's livelihood. The income from land is often subject to economic volatility and hence becomes hardly predictable, and this is understandable. But it should be very easy for the Government to make projections for profits tax and salary tax, and there is no reason for any seriously erroneous forecast to be made. This Government and the future SAR Government must adopt a new mindset, a new approach and a new procedure to improve the accuracy of the financial estimate.

Third, government revenue is non-stable while expenditure shows a steady increase. This is also a problem that needs to be addressed by this Government and the new-term Government. Recently, a think tank has proposed the establishment of a financial stability fund by the Government. When the economy is in good shape, the non-stable income, such as the surplus proceeds from land sale, stamp duty on stock transactions and investment return from the fiscal reserve will go to this fund, and in times of an economic downturn, the shortfall in these non-stable revenues will be topped up by this fund, in order to stabilize the annual revenue of the Government. If this proposal can mitigate the problem of unstable government revenue and hence create the conditions for the Government to study and increase its recurrent expenditure or alleviate and even resolve some deep-rooted conflicts, I think the proposal is worthy of active consideration by the Government.

Fourth, in order to build a strong foundation for the Government to take forward long-term policy reforms, the Government should study how best the \$500 billion accumulated surplus of the Exchange Fund can be utilized. The former Chief Executive of the Hong Kong Monetary Authority, Joseph YAM, pointed out some time ago that part of the revenue generated from the Exchange Fund can be turned into a source of income for the Government and that it is unnecessary for the reserved capital to increase continuously. He considered that with a sufficient reserve, part of the fund can be allocated to supporting government spending and meeting the additional expenditure required for the benefit of the public.

These are the views and myths in the community about the public finance management of the SAR Government over the years, and they have reflected to varying degrees the public views on and their dissatisfaction with the fiscal management approach of the Government. This Government and the new-term

Government should spend more time on conducting reviews and studies. Having said that, it is unfair to expect the Budget to deal with the structural problems because the duty of the Budget is only to put into practice the governing philosophy of the ruling team and provide the necessary resources. So, if it is said that the public are dissatisfied with the Budget, it might as well be said that the public are dissatisfied with the administration of the SAR Government and the ruling team. Therefore, the Government must seriously think about how it can respond to the long-standing concerns of the people.

Next, I wish to talk about the point that the population policy has not provided support to the development of the industrial structure.

The population policy and the industrial policy are very closely related to each other. Without an industrial policy, there would be no policy on talents; without a policy on talents, the immigration policy of Hong Kong would become neither fish nor fowl and passive, not being able to effectively promote the industrial policy. Given the lack of a proactive industrial policy to promote new economic activities and create new jobs and explore business opportunities, the grassroots and even the middle-class people have not been able to share the fruits of the overall economic growth, thus causing public grievances to accumulate. On the other hand, the Government does not have a population policy and only harbours the idea that the arrival of children whose parents are both non-permanent Hong Kong residents can replenish the population, while the healthcare resources in Hong Kong cannot meet the drastically expanding child delivery needs, thus making it difficult for local pregnant women to access sufficient and appropriate child delivery services and giving rise to the scenario of Hong Kong people venting their spleens on the Mainlanders. All these have gradually aggravated the deep-rooted conflicts in society, and they also explained why the Government's popularity has remained far from satisfactory despite the Government recording a fiscal surplus every year or keeping a huge fiscal reserve and giving out candies in this Budget. The population policy is one of the reasons explaining the ever mounting social grievances and discontent.

On the issue of talents, Chief Executive Donald TSANG has not dealt with the problem at root by studying how the relevant talents can be trained systematically other than conceiving his theory of "replenishment". In the Policy Address, he pointed out that children born in Hong Kong to Mainland

women may replenish the population of Hong Kong. In the absence of a substantive population policy, the Steering Committee on Population Policy set up by the Government is tasked not to look into the training of talents and a reserve of talents but to study ways to support elderly people to settle in the Mainland after retirement if they so wish and enable children whose parents are both non-permanent residents of Hong Kong to return to study in Hong Kong.

On the other hand, in respect of attracting overseas talents to Hong Kong, over the years, through the Capital Investment Entrant Scheme, Hong Kong has attracted only 13 000 people and foreign capital of no more than \$95 billion, which is just slightly more than the Government's \$80 billion-worth one-off measures to hand out candies proposed in this Budget. Under the Admission Scheme for Mainland Talents and Professionals and Quality Migrant Admission Scheme, only about 50 000 talents have been admitted, and this cannot provide the necessary support to the industrial structure of Hong Kong.

In view of this, the Democratic Alliance for the Betterment and Progress of Hong Kong calls on the Government to broaden the scope of research studies conducted by the Steering Committee on Population Policy (*The buzzer sounded*)  
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**PRESIDENT** (in Cantonese): Ms LEE, time is up.

**MS STARRY LEE** (in Cantonese): ..... President, I so submit.

**MR WONG YUK-MAN** (in Cantonese): President, in the Budget last year, the Financial Secretary announced the injection of \$6,000 into the MPF accounts of all employees in Hong Kong. Such a ridiculous proposal for handing out money immediately drew criticisms from various sectors of society. In the end, under the pressure of public opinion, the proposal was changed to the distribution of cash instead. As a result, all members of the Hong Kong public, in particular, the impoverished members of the public in deep water were able to catch a breather. Although this move was jeered as an overnight change of policy, if there is something wrong with the policy, what problem is there with changing it overnight?

With the pro-establishment camp and the political parties in the pro-democracy camp flanking and escorting the Budget this year, the proposal to hand out cash was rejected. Instead, the rates and business registration fee are waived and reductions in income tax and profits tax are offered. The total sum involved is as much as \$30 billion, so this Budget is worse than the one last year.

All along, the SAR Government has adopted the mentality of a miser in public administration. This year, the behaviour of the Financial Secretary is out of character, just as he was last year, in that he took the initiative to hand out money to the rich and the middle class, thus widening the wealth gap and creating social injustice. Dr SUN Yat-sen, the Founding Father of our nation, once said, to this effect, "The problem with the European and American economies lies in the unequal distribution of wealth, which leads to conflicts, whereas that with China lies in poverty, so it is preferable to create sources of wealth. However, if wealth is created but not equally distributed, conflicts would still be inevitable. Therefore, with a view to forestalling foreseeable problems, it is preferable to make reference to Europe and the United States, strive to achieve parallel social and economic development and seek appropriate solutions to all social and economic problems.". Not only is the equal distribution of wealth the ideal in a world of equality, from a realistic point of view, it is also the cornerstone of social stability.

The former President of the United States, John Fitzgerald KENNEDY, had a motto that is printed on the back of my name cards. He said that if free society cannot help the many who are poor, it cannot save the few who are rich. When the poor find that they cannot make a living and that a small group of people is enjoying their huge wealth and privileges, they would rise against the establishment and social turmoil would surely occur. Last year, in the debate on the budget, as a piece of advice to the Financial Secretary, I cited the financial philosophy of a distinguished person of the past in our country, saying, "To any ruler, it is imperative that they accumulate the country's wealth among the people rather than filling the imperial vaults with wealth". However, it turned out that now, he is going to distribute the surplus to the rich, so I am afraid he would live in infamy and be lambasted forever in history.

On 21 February this year, the People Power mobilized some elderly people to walk around the Legislative Council Complex and the Government Secretariat

to express their demand for "a refund of \$8,000", with 1 200 elderly people taking part in the rally. These elderly people had toiled for a lifetime and made contribution to society. They only hoped to lead a settled life in old age but the Government could not hear their voices at all. I remember that on that day, there were over 1 000 elderly people in the Legislative Council. We talked with them here and helped them along. However, it turned out that no newspaper carried any report on this and all television stations were busy pursuing Mr Jasper TSANG, Mrs Regina IP, the "pig", the "wolf" and that shameless "pigeon". Government officials were even worse. I asked Secretary Matthew CHEUNG if he had heard their voices, but he did not pay the slightest heed. That was the first time that over 1 000 elderly people gathered here, but no one could see or hear them.

On 4 March, the People Power initiated the "Beating mean people and repudiating the unfair Budget campaign". Originally, it only targeted John TSANG but subsequently, it also included Donald TSANG as well as those people in the small circle. It attracted a total of 6 300 people, who gathered in Chater Garden in Central, and the scene was very impressive. The participants all raised their shoes to strike at the images of senior officials and Donald TSANG, who heads them, as well as the three Chief Executive candidates. We had set up a stage in the middle of the garden and effigies were placed on it. These effigies had the images of the people whom we wanted to hit or people whom the public wanted to hit or punish stuck on them. We also prepared some chants for beating mean people, including "A corrupt Chief Executive, disgrace for Hong Kong, Donald TSANG deserves a beating" and "Robbing the poor and benefiting only the rich, John TSANG deserves a beating". That was a pleasurable struggle which gave people the chance to vent their discontent.

Has the Financial Secretary ever thought about how great the harm done by the perverse policies of the SAR Government is to the public? Hong Kong is already a developed region with a booming economy, yet its wealth disparity is also unparalleled in the world. Some people can savour a bottle of Lafite costing \$10,000 to \$20,000, but many elderly people have to grovel in the streets and make a living by scavenging for carton paper and aluminum cans. The number of poor people in Hong Kong has reached 1.26 million and the number of poor households also stands at 470 000, so on average, one in three elderly people is mired in poverty.

On 15 last month, some street sleepers were cleared in Tung Chau Street, Sham Shui Po, by the police. The Food and Environmental Hygiene Department (FEHD), which is responsible for environmental hygiene, treated their belongings like rubbish by throwing them away. In following up this incident, my assistants contacted the Superintendent of the FEHD for the Sham Shui Po District, who said in reply that he had no time to receive me and if I had any problem, I could discuss it with the Health Inspector of the Pest Control Section. It turned out that in the Government's eyes, those street sleepers are just pests and rubbish.

Last week, on a very cold day, an old lady aged over 70 years who had been sleeping rough there and relying on collecting carton paper for a living died from the cold in the street, but nobody paid any heed to her. Last month, the FEHD, the Home Affairs Department and the police, having received complaints from District Council members of the DAB, cleared these street sleepers from the street. Subsequently, three fellow brothers from the Christian group to which I belong kept watch over these fellow brothers of theirs every night, distributing meals and clothes to them. All along, we had kept in touch with the elderly lady who died from the cold in the street. After she had died from the cold in the street, nobody even claimed her body, so what we did next was to claim her body and arrange for its cremation. This is how it was like and this sort of things happens every day. However, when we look at them here, we cannot allow this sort of things to happen, so last week, we held a memorial service which was attended by over 500 people. Did government officials know? Again, they did not. Did the mass media report on this? No, but everything was uploaded onto the Internet. Why did this elderly person come to such a pass? Financial Secretary, how many people are finding themselves in situations similar to this elderly woman? The beds in residential care homes are in serious shortage, so they have to wait until they die.

In 2008, after I took office as a Legislative Council Member, my first oral question was precisely directed at Matthew CHEUNG and I asked him how many people had passed away before they were allocated subsidized places in nursing homes and care-and-attention homes each year. Financial Secretary, the latest figure, that of last year, is some 5 100 people. I often say that the Government's principles of fiscal management and the fund allocation system are all like steely cold machines devoid of humanity. We really do not wish to see situations like

that of the elderly woman, so apart from arranging for a funeral for her, we also asked some charitable people to donate an ossuary niche in Tuen Mun to her. However, it is useless for us to do this sort of things. When she was alive, she could not depend on anyone in her old age and after her death, she could not get a proper burial place. These people who have to sleep rough or those in socially disadvantaged groups leading miserable lives in their old age have difficulties even in survival, so what kind of society is this?

Mr LU Xun once said, to this effect, "Our pressing tasks at present are, first, survival, second, food and clothing, and third, development. Should anything stand in the way of this future direction of ours, be it people or ghosts, ancient books and records, the Celestial Sphere and the River Map, golden statutes or jade Buddhas, pills and powder handed down from forebears or cream and pellets made from secret formula, they would all be trampled on and destroyed.". Without survival, there is no development, and this is a reality of life.

As early as November last year, the People Power already presented the Financial Secretary a "ten-thousand-word submission", requesting the formulation of relief measures that are people-oriented. They include the distribution of \$8,000 to all members of the Hong Kong public, establishment of a universal retirement protection scheme, provision of unemployment financial assistance, an increase in the production of public housing units and Home Ownership Scheme units, development of high value-added industries, and so on. We have proposed these measures for many years, however, this Government is not accountable to the public but to plutocrats. I wonder if the Financial Secretary has ever looked at our "ten-thousand-word submission", or if he once again considered these proposals of ours platitudes and cast the submission aside.

Over a century ago, Dr SUN Yat-sen proposed the theory of "equalization of land ownership", which is a basic belief that dates back to the *Progress and Poverty* published by the American Economist, Henry GEORGE, in 1879. He said that the equal right of all people to the use of land is as clear as their equal right to breathe the air. The wealth produced from land should be distributed among the entire community. Dr SUN Yat-sen's notion of "equalization of land ownership" is based on the principles of "returning any increase in value to the people" and "buying back the land according to its price". However, both the

Government and plutocrats are involved in the high land price policy and the hegemony of property developers in Hong Kong.

The so-called measures of tax rebates and rates waiver are actually designed to distribute social resources selectively, so essentially, are they not also measures to hand out money? However, to what people are the rates amounting to \$11.7 billion waived? We requested the Government to provide a paper in the House Committee to tell us about the top 10 people who paid the largest amount of rates. The one in the first place paid \$90 million and the one in the 10th place paid \$8 million, and there were over 100 people paying \$1 million to \$8 million. The problem is not with scarcity but with uneven distribution, so to whom was the money given? Financial Secretary, the amount was \$90 million. A company can receive \$900 million under this Budget, but the poor cannot even get \$900, so where has the money gone?

On tax rebates, among the 60 Members in this Chamber, how many will benefit from this Budget? I am still doing the sums. At least, they can get a concession of \$12,000 in income tax and people doing business are given concessions in profits tax. Those owning more than one property can receive a concession of at least \$10,000. Some Members here even own 20 properties. How much money can each of the senior officials among the three Secretaries of Departments and 12 Directors of Bureaux get on account of this Budget of the Financial Secretary? If these figures are made public with no holds barred, even if the Secretary would not feel ashamed, we would feel ashamed on account of these officials.

I just do not bother to speak according to the script anymore. What is even more disgusting is that the Democratic Party have gone so far as to oppose the handing out of money. Why do they oppose the handing out of money? Their ground is the same as that of the Government, that long-term measures should be introduced. Is there any long-term measure? If more public housing were built, if universal retirement protection were introduced, if more residential care homes, schools and hospitals were built, there would not be any need to hand out money. Now, the Government is still handing out money, but to whom? To property developers, the rich and the middle class. Last year, it was said that the handing out of money was unfair because all people were given \$6,000 across the board. Even someone as rich as John TSANG was entitled to it. Was it necessary to give him the money? Even LI Ka-shing was entitled to it, but was

it necessary to give him the money? Poor people also received \$6,000 each, so it was said that this was not fair. Is it very fair this year? John TSANG can receive at least \$10,000 or \$8,000, whereas LI Ka-shing can receive over \$100 million, but the poor cannot get even one cent. Such is the so-called principle of fairness of the Government.

We must condemn this Budget. This Budget is the last one within the Financial Secretary's term and it will make him infamous and an object of castigation in history. This is the most unsightly Budget. The Financial Secretary thought that he could please the middle class and the rich, but why does he not hand out money in his last Budget? We have clamoured and shouted the slogan of "give a refund of \$8,000, return wealth to the public", with reverberations in the air. Does the Financial Secretary know how many signatures we collected in a signature campaign in the street? Just like the motion to be proposed later on, it would be useless even if I were to bring them here for him to have a look. We have mobilized a signature campaign called "All people impeach corrupt Donald TSANG" and collected some 70 000 to 80 000 signatures already. This is what I call public opinion.

Therefore, we will not accept this Budget and the People Power will surely vote against it.

**MR CHAN HAK-KAN** (in Cantonese): President, this Budget was announced by the Financial Secretary at a time when Hong Kong faced a global financial crisis. Basically, I agree with the Financial Secretary making tackling the financial crisis as the theme of the Budget and emphasizing support for enterprises and increasing public expenditure. Nevertheless, my views differ from his considerably in how best the crisis be tackled, particularly in the healthcare and environmental protection aspects.

In what way is the financial crisis related to healthcare and environmental protection? In commenting on the economic stimulus package proposed by the United States to tackle the financial turmoil, American economist Joseph E. STIGLITZ stated that a good economic stimulus package should be timely, effective, fair, underpinned by long-term considerations and investments, and able to address urgent needs and target unemployment. In my opinion, these seven points are applicable not only to the United States, but also to assessments

of the merits and demerits of most economic stimulus packages, including Members' comments on this Budget.

Both healthcare and environmental protection should be "effective" and underpinned by "long-term considerations" and "investments". By "effective", it means that every dollar spent must yield a return of more than a dollar. Investments in healthcare services can not only promote health, but also facilitate disease prevention, thereby helping society raise productivity in a substantial manner. Meanwhile, investments in environmental protection will be helpful to alleviating the enormous financial losses incurred as a result of the damage done to the environment in the future. Therefore, we must break with the old mindset and refrain from regarding healthcare and environmental protection as simple expenditure. In fact, investments in these two aspects will not cause us to incur any losses. What is more, it is conducive to the long-term development of Hong Kong society, and jobs can be created as well. I wonder why the Government does not make more efforts in these two respects.

President, this Budget delivered by the Financial Secretary is his fifth one, and the last of the current-term Government. He once stated that government expenditure had risen by 70% in the past five years to meet public needs in such areas as education, healthcare and social welfare. Through the debate today, I would like to make a tally with the Government to examine if the current-term Government has really managed to alleviate people's hardship.

On healthcare, the Financial Secretary has brought the chronically ill the good news that \$10 billion will be injected into the Samaritan Fund and the tiers of patients' contribution ratio for drug expenses simplified, so that allowances can be provided accordingly. It sounds that the proposal can alleviate the financial burdens on patients and their family members and deserves a "like", but is this the actual situation?

President, I have recently received an email from a patient who told me that he had been suffering from chronic myeloid leukaemia and taking drugs for a long period of time to keep his condition stable. In order to alleviate his financial burden, he has been applying to the Samaritan Fund over the years for assistance. Let me cite his case as an example. Under the existing mechanism, he is required to pay \$97,000 in medical expenses per annum. Under the new proposal put forward by the Financial Secretary, he will pay \$5,000 less, which

means that he will still be required to pay \$94,000 per annum. To him, the Government's proposal this time is actually just a "small favour". He said that the situation would be very much different should the Government provide a little bit more allowance in "disposable financial resources", for he would then be required to pay only \$5,000 in medical expenses per annum. President, under certain circumstances, this patient is required to bear medical expenses of more than \$90,000, whereas under other circumstances, he would be required to pay only \$5,000 in medical expenses per annum. I hope the Government can study afresh whether the allowances provided by the Samaritan Fund can be adjusted further. This will not only help alleviate the financial burdens on patients, but also give them a shot in the arm psychologically, so that they can recuperate with peace of mind.

Besides the drug subsidies, the DAB has all along kept an interest in the development of Chinese medicine and advocated the construction of a Chinese medicine hospital that provides joint consultations of doctors practising Chinese and Western medicines. Nevertheless, the Government has not yet made any positive response. This year, we have finally seen a ray of hope for the notion of setting up a Chinese medicine hospital. The Budget mentioned that Queen Mary Hospital (QMH) and Kwong Wah Hospital (KWH) will be redeveloped next year. After redevelopment, KWH will strengthen its Chinese and Western medicines shared care services, including providing a Chinese medicine general out-patient clinic, setting up a Chinese medicine laboratory, and so on. While this represents small progress in the development of Chinese medicine in Hong Kong, it is just a small step. We hope that the Government can expedite the planning and construction of a Chinese medicine hospital that provides joint consultations of doctors practising Chinese and Western medicines as a concrete measure to promote integration of Chinese and Western medicine services.

When it comes to of hospital redevelopment, the redevelopment of United Christian Hospital (UCH) is also a matter of great concern to members of the public. As the leading hospital of the Kowloon East Cluster (KE Cluster), UCH is responsible for serving Kwun Tong residents and, in recent years, required to attend to Tseung Kwan O residents as well. However, these two districts have different population structures and demands for hospital services. Let me cite Tseung Kwan O as an example. Despite its residents' earnest hope for the provision of additional obstetrics and gynaecology services in the expanding

Tseung Kwan O Hospital (TKOH), the Government has all along refused to address their request squarely and required Tseung Kwan O residents to go to UCH instead for obstetrics and gynaecology services. President, just think about this. A pregnant friend of yours may have to wait for 10 minutes to hail a taxi in Sai Kung. Moreover, it is a long way to UCH. Should she fail to get an urban taxi, she will have to take a New Territories taxi first and get off in Tseung Kwan O for another taxi to go to Kowloon. It is indeed very troublesome. It will take a pregnant woman living in Tseung Kwan O a whole day for trips to Kwun Tong for an antenatal check-up and back home. What a daunting task for a pregnant woman with a big bump! I hope the Government can sympathize with these mothers-to-be by enhancing the obstetrics and gynaecology services in both UCH and TKOH. Nevertheless, I have read the government documents on the redevelopment plan of UCH and found no mention of additional obstetrics and gynaecology services to be provided there. Such being the case, how can the hospital cope with the needs of pregnant women living in Kowloon and Tseung Kwan O? I hope the Government can carefully reconsider how this issue can be resolved.

The birth of a baby is originally a cause for celebration. However, we have seen mothers-to-be in Hong Kong in a difficult situation in recent years. Even before the birth of their children, they have to engage in a battle with pregnant Mainland women whose spouses are not permanent residents of Hong Kong (doubly non-permanent resident pregnant women) in fighting for places for antenatal check-ups, hospital beds, maternal and child health services, and school places when their babies grow up. A questionnaire survey conducted by the DAB sometime ago reveals that the local pregnant women surveyed generally believe that the trend of doubly non-permanent resident pregnant women coming to Hong Kong for child delivery has caused a decline in the quality of obstetrics and gynaecology services in Hong Kong and greater work pressure on healthcare personnel. Moreover, the situation is already quite critical. Unfortunately, in the Budget, little coverage was devoted to ways to improve the obstetrics and gynaecology services in public hospitals. I really have no idea how local pregnant women can have peace of mind in delivering their babies. Certainly, in order to resolve the problem of doubly non-permanent resident pregnant women giving birth in Hong Kong, the Government must ultimately start with the immigration policy. Only through the legal channel can this problem be resolved thoroughly. Nevertheless, our debate today is on the Budget, so I do not wish to spend too much time discussing this problem. What I wish to say is,

before the problem is resolved, the Government must allocate adequate resources to improve the obstetrics, gynaecology and paediatric services and retain manpower. The purpose of doing so is to ensure that local pregnant women are given proper care and treatment, but not to lure more doubly non-permanent resident pregnant women to come to Hong Kong for child birth. Lastly, I wish to add that we have repeatedly urged the Government to stop adopting a broad-brush approach in tackling the problem of doubly non-permanent resident pregnant women and refrain from lumping pregnant Mainland women whose spouses are permanent residents of Hong Kong (singly non-permanent resident pregnant women) and doubly non-permanent resident pregnant women together for discussion. Public hospitals should suspend their admission of doubly non-permanent resident pregnant women and give the maternity quota for Mainland pregnant women entirely to singly non-permanent resident pregnant women to allay the helplessness they feel in looking for maternity beds everywhere.

President, following the healthcare issue, I would like to spend the remaining time expressing my views on the environmental protection policy.

The current-term Government actually attaches great importance to environmental protection work and so, it has specifically set up the Development Bureau. Nevertheless, under the management of the Financial Secretary, the increase in funding for environmental protection initiatives is relatively small compared with that for social welfare and education. Despite the Financial Secretary's repeated emphasis that tens of billions of dollars has been injected into the development of environmental industries, the largest hardware for environmental industries, so to speak, might just be the EcoPark.

Nevertheless, although the two leasing phases of the EcoPark have already completed, a site visit will reveal that many places are still left vacant. The problem is not solely attributed to the exceedingly high threshold set by the Government for admission to the EcoPark. Even though some factory owners have the conditions for admission to the EcoPark, they cannot afford the capital required for the construction of large plants. May I ask the Government what it will do to support environmental enterprises?

Another issue is that the firms inside the EcoPark are allowed to perform "upstream" operation for environmental industries only, that is, to recycle the waste recovered and turn it into different materials for export to other countries.

As for the "downstream" operation, such as manufacturing green waste into worthy products for sale on the market, since there are absolutely no such businesses in Hong Kong, it can naturally not develop its own brands for environmental industries. The lack of a "one-stop" policy to support environmental industries is precisely one of Hong Kong's shortcomings. Even if the firms in the EcoPark wish to make good use of recycled materials, there is nothing they can do because there is simply no "downstream" production, research and development in Hong Kong. The only thing they can do is to process recovered waste materials and then ship them to overseas markets for sale as recycled raw materials.

President, the lack of a way out for environmental industries in Hong Kong is not a problem faced by the EcoPark alone. The case of electric vehicles reveals another situation. Although the electric vehicles developed by a university in Hong Kong have already entered the European market, the Government has been taking these vehicles lightly. We are very disappointed that some government departments wishing to procure electric vehicles prefer Japanese, French and American makes to the local make. Although the Financial Secretary has been proactively promoting the extensive use of electric vehicles since taking office, the number of electric vehicles on the roads is still very small. Despite the fact that the Legislative Council Complex has charging facilities for electric vehicles and many car parks are also equipped with such facilities, President, how many electric vehicles have you seen charging in these lots? I believe you have not seen any. I have not, either. Hence, for the purpose of encouraging vehicle owners to use electric vehicles, the Government should take one more step or even introduce a greater number of innovative measures. The simplest way is to exempt electric vehicles from licence fees or even compel franchised bus companies to use electric vehicles to carry passengers. Only in doing so will there be a chance for air quality to be improved and the utilization rate of electric vehicles increased.

Although Hong Kong is currently facing a global financial crisis and many members of the public find the economic conditions in 2012 worrying, I believe Hong Kong is absolutely capable of tackling another financial crisis as we already experienced a financial turmoil in 1997 and a financial tsunami in 2008. Nevertheless, we must not allow our mindset to remain at the level of solving problems only. Instead, we must further plan for the future and proceed with making investments in such domains as healthcare, environmental protection, and so on, to enable Hong Kong society to get better and better at all fronts. In this

way, Hong Kong can naturally enhance its ability to counteract the financial crisis.

President, I so submit.

**MISS TANYA CHAN** (in Cantonese): President, I recall a month ago the Financial Secretary used more than two hours to read out his last budget. Before he delivered his budget, many people had dared not hold any expectation for his budget. We had a meeting with the Financial Secretary and that was, after all, his last budget. And each time when we meet with the Financial Secretary, we would bring along some props to match the advertisements featuring the Financial Secretary personally. Members may recall last year I brought along a moustache and people could present their views on that day. I did not bring along anything this year. Actually, I had wished to ask the Financial Secretary to do what a policy secretary had done and that was to raise funds by singing a song. But we did not need to raise funds, for our public coffers are inundated.

The Civic Party always hopes that the Government can commit resources to some long-term developments, such as universal retirement protection or at least setting a more reasonable level of reserves. However, we find from the speech made by the Financial Secretary that as at 31 March, Hong Kong has reserves roughly equal to 22 months of government spending. And in the next financial year, even as our spending for this year will increase, the Government estimated that in 31 March next year, the reserves would still be equal to 20 months of government spending. In some overseas places, the governments there would prescribe a level of reserves which is quite reasonable to enable the governments to use resources effectively, especially in the formulation of some long-term policies instead of some short-term relief measures. However, we can see that the SAR Government is accumulating more and more money that is sufficient to meet government spending for 22 months. Put it bluntly, it is like someone who sits at home and does not work, but he can still pay for his expenses for 22 months or almost two years even though he does not have any income. President, many people who lead a hard life would feel that the Government does not help them even though it has got so much money. What should they hope for? Why should they place any trust in a government like that? Does it ever feel their hardship and have any sympathy for them?

Next week when we discuss the Appropriation Bill, I will move an amendment to convey the demands of those who are concerned about animal rights. In addition, other colleagues from my party will move other amendments. About this Budget which does not show any care for those "N have-nots", I regret very much and I can say I am appalled. Although we realize that economic conditions are not certain, we still have such a large amount of reserves. And if we do not care about these "N have-nots", it would only serve to aggravate the wealth gap problem.

Now I would like to turn to other areas which have all along been subjects of concern to me. I can see that the Budget this year fails to address social problems as pointed out by the public. Education is an important ladder on which young people can move upwards in society. But in this Budget, the attention paid to education of the young people can be described as not sufficient at all. In regard to the student loans which the recipients use to pay for their tuition fees, for example, the students of universities and postsecondary institutions may now start to repay such loans one year after graduation. It seems that they now have one whole year's extra time, but what is the case in reality? It does not really help that much. Why? This is because the students usually graduate in June and previously, they would start repaying their loans in January the following year and that is already six months after their graduation. Now they are given six more months and actually, this is only six more months than before. But what is said is that they are now given one whole year more.

President, interests will be charged during this one-year period. If you want a waiver of the interests, fine, you may talk to the Student Finance Office and if approval is granted, then the interest during that period can be waived. But in actual fact, interests still continue to snowball. I am sure the burden on the students will really be alleviated if they are allowed to start repaying their loans a year and a half or two years after graduation. This is because many students do not just borrow the money for one particular programme of study. They may enrol on another programme after their graduation. So in this way they would borrow another sum of money while they are repaying the loan they have previously drawn. They hope that the interest payable would not become greater and greater. This is because the burden is very heavy on not just the students themselves but also their families. This situation also prevents many students from really enjoying university life, for they have to work part-time jobs.

Now the first batch of students sitting for the Diploma of Secondary Education Examination and the last batch of students for the Advanced Level Examination have begun to sit for their examinations. They have to face very great pressure. Some students have chosen to jump the bandwagon, so to speak. I hope the Government can increase the number of subsidized university places to meet the needs of local students. I know that it would not be possible this year. Every year many students who actually meet the university admission requirements are barred from entering a university because the number of subsidized places is too small.

Members also know that I care very much about the arts, culture and sports. But this year's Budget has very little to say on these areas. This applies especially to culture and the arts. We know that the Government will increase its funding for the nine major arts companies and troupes, but we would hope to see more specific measures introduced. In the development of arts and cultural education, for example, we know that the West Kowloon Cultural District (WKCD) will soon become a reality. Leaving aside the question that the amount of funding for the WKCD, that is, \$21.6 billion, is not enough, and there may be a need for more funding amounting to some \$10 billion, so what should be done? Should bonds be issued or other options be adopted? If bonds are to be issued, the Government will have to be the guarantor, or else who would want to buy such bonds? President, the authorities are still silent on the financial arrangements to date. President, in terms of the financial arrangements, the WKCD is likely to rely heavily on sales, retail and catering business and this will defeat the principle of making culture and the arts as the core elements of the WKCD.

I also hope the Government can realize that if a so-called cultural hub is to be developed in Hong Kong over time, it is very important to foster the cultural and artistic upbringing of our people, and we must start with education and right from the primary level. We should cultivate the humanistic temperaments of the students and I hope the Government will spare no efforts in this.

Next I would turn to the issue of a sports policy. Members may recall that last year the Government greatly increased the funding for the Sports Fund. If Members still remember it, during the earlier discussions on the bid for hosting the Asian Games, many members of the public pointed out the urgency of the shortage of sports venues. But we do not see anything said on that in the Budget

this year. It is silent on increasing the sports facilities at the community level. As a matter of fact, this is an important link in the popularization of sports and making sports accessible to the general public. The Government has always said that there are three processes involved in its sports policy and one of them is popularization. But we do not see anything done by the Government at the community level to increase sports facilities and the resources put in such matters.

On the other hand, I also remember that I had once talked about this to Financial Secretary John TSANG. Members can look up the records on that. Actually, the funding was not part of his policy portfolio. I still hope very much that the Financial Secretary and the relevant Director of Bureau can pay greater attention to the cash award for disabled athletes. The amount receivable by disabled athletes is just one tenth of that received by able-bodied athletes. This is really outrageous. The Olympic Games 2012 is coming soon and besides this sports meet for able-bodied athletes, there is also the Paralympic Games for disabled athletes. Under the present arrangements, a disabled athlete winning a gold medal will only get a cash award one tenth of the amount receivable by an able-bodied athlete. I think that is really unacceptable. President, whenever I talk about this, I think that it is really unfair. The Secretary has given a reply for a countless number of times. But the reply is totally unacceptable because no members of the public will be convinced, not to say the athletes themselves. I hope that a review of this can be undertaken soon. It remains of course, that the cash award may not have to be raised to the same level, but I do think that the award for disabled athletes must be increased in amount.

I will now turn to conservation matters. This Council does bring up lots of issues concerning trees, intangible cultural heritage or other conservation issues every year. However, it is my conviction that we should set up a conservation fund for cultural and natural heritage. This fund is not just a fund for the conservation of buildings or structures or common kinds of hardware in conservation. What we are talking about is a fund for the conservation of intangible cultural heritage, natural heritage and material heritage. For any conservation policy or any other kind of policy, if it is to be implemented on a continued basis, it will inevitably involve the question of money. As we can see from recent cases like the HOTUNG Gardens or the King Yin Lei case earlier, at the end of the day, the question of money all came in. But where does the money come from? The Government cannot buy this and that after it has

allocated money to the fund and says that it is for the purpose of conservation, but actually it is for making a certain deal. There must be a transparent system and a review should be conducted of the policy concerned. What would be the most important uses of this fund once it is set up? After a review is done of the mechanism concerned, the people should be given ample opportunities for discussion and I hope that this fund can play the role of conserving cultural relics of this generation or the generation before. This will enable us to pass on cultural heritage which is so important to us.

On environmental protection matters, it is fortunate that Secretary Edward YAU is in attendance. I am sure Members are concerned about the news reports both today and last night on the building of a new incinerator. President, the cost of construction has gone up from some hundred thousand dollars to more than \$1 million dollars. On top of the rising cost, funding will have to be approved in this financial year. I have no idea why costs have risen all of a sudden by a few times. Certainly, I am sure the Secretary will give a reply to this question later. We know that there may really be a need for facilities like landfills or incinerators. But if we do not do a good job of waste separation at source, the incinerator we want to build is really burning our banknotes. First of all, the act of building an incinerator is like burning money. And when we have done a good job of waste separation at source and when there is no waste to be burned, then we are also like burning money. If we do not separate waste well and at source, and if some other materials are mixed in the waste, we are like burning money when we incinerate them. President, these are the three ways we would be burning money. I do not think money should be burnt this way because it is the hard-earned money of all the people of Hong Kong.

With respect to waste separation at source, we have read the consultation paper. Subjects like levying a duty on garbage and forging some common ground are discussed. However, the authorities have not even disclosed the level of garbage duty to be levied under the aim of waste separation. When we visited the districts, the residents asked us how much would the duty be and my answer was that I had no idea because the Government had not disclosed any detail. I asked the residents what they would consider a reasonable level. They asked me again what was the use the Government had in mind when it wanted to levy such a duty. So the people are really very smart. When the Government wants to levy such a duty, the people will certainly want to know what the uses

are, whether this will lead to less waste or whether it will help protect the environment. Moreover, some people say that the duties on plastic bags and garbage should comply with the requirement that the money collected should be used for a dedicated purpose, as a true contribution to environmental protection. Admittedly, the Secretary has on countless occasions explained that the money will not be used for a specific purpose. And we also know that given the existing system, it is not that easy to follow this approach of spending a particular sum of money for a specific purpose. But I hope that the Government can consider the idea.

Next week we will be discussing matters concerning landfills and incinerators on other occasions. So I do not think we need to talk about these subjects at length today. But I still wish to see more support offered by the Government to the environmental protection industry. We can see that certain big companies may be able to play a part in the EcoPark. But there are many other SMEs in Hong Kong in the environmental protection business. We often receive enquiries and comments from them, saying that the Government should have done better and put in more efforts.

I wish to turn to the policy regarding columbarium niches, which has a close relationship with the use of land resources. We can see that progress in this policy has been very slow and very often it is a scenario of bulldozing things first before building anything later. The most recent example is Po Toi Island. It used to be an island of exquisite beauty and serenity. But recently all the trees on the island have been felled to make way for the construction of something which resembles a columbarium. The actual works have not yet commenced and only some slabs of concrete are placed there, while some action has been taken by the Government to follow up this case. However, there are certain things that can never be remedied. Once the environment is destroyed, it may take decades for it to restore. So we will never want to see any damage done to nature in this way.

Lastly, I would like to make use of this opportunity to talk about consumer rights. President, over these years when I have been serving as a Member of this Council, I have handled many complaints concerning consumer rights. These include undesirable sales practices in cases like THE ICON and recently, with some beauty salons. The details of these cases are really terrifying. When I followed up the case of a property development called THE ICON, people

thought that I had bought a flat there. And when I offer my assistance to the ladies who have patronized that beauty salon, maybe some people will think that I have also bought a package of the services provided by that beauty salon. I wish to declare that I have not bought any such package. I find the sales practices employed by that beauty salon, including threatening the clients with the photographs of these clients in nakedness, totally unacceptable. I hope that more and better actions can be taken by the Government in respect of consumer rights, particularly with respect to striking a good balance between a cooling period and prepayment. I so submit.

**DR LEUNG KA-LAU** (in Cantonese): President, every time when I rise to speak, I would have doubts about whether giving a speech here is of any use at all, except that my speech will be put on record. As this is the last Budget during the term of office of the Financial Secretary, will my speech cause any changes at all? Sometimes I really do not want to rise to speak but after giving it some more thoughts, I think the Financial Secretary may continue to work as the Financial Secretary in the coming year, or if the Chief Executive Election to be held on Sunday were aborted, perhaps you, President, may become the Chief Executive or even Financial Secretary John TSANG may stand a chance of taking up the office of the Chief Executive, and in that case, there may still be a chance for changes to be made to the policies of the next-term Government. I have, therefore, risen to say a few words here. Much of what I am going to say may have been said before but in my impression, it seems that I have never said these to the Financial Secretary. Let me now repeat the points here.

I heard many colleagues say that as the Government is so rich, it should increase expenditure, especially the healthcare expenditure, and they also consider that public healthcare services have remained grossly inadequate. I, therefore, tried to look into the situation. I found that in this year's Budget, the provisions to be made to the Hospital Authority (HA) have actually increased by \$4.3 billion, compared to last year's Budget. The rate of increase is substantial, which is 11.7%, as the amount has increased from \$36.8 billion in last year's Budget to \$41.1 billion this year, representing an increase of \$4.3 billion, which is quite a lot indeed.

I very much appreciate that compared with the European and American governments, the revenue of the Hong Kong Government is relatively less. In

European and American countries, the average revenue may be equivalent to 40% or even 60% of the Gross Domestic Product (GDP) but in the case of the Hong Kong Government, no matter how many lots of land are sold, how much tax revenue is collected or how much the fiscal surplus is, the annual revenue broadly amounts to around 20% of the GDP. In respect of healthcare expenditure, the European and American governments spend around 6% of their GDP on healthcare expenditure, compared to a mere 2.5% to 3% that can be spent by the Hong Kong Government. In comparison, the resources that the Hong Kong Government has injected into healthcare services are only half of the injections made by European and American countries. Based on these statistics, the resources that the Hong Kong Government has put into healthcare services are scarce indeed. Why is it so? The reason is simple. Because the revenue of the Hong Kong Government is far less than its counterparts in Europe and America, as ours is only half of theirs. A direct result of this is that the resources injected by the Government into various social services are just half of those in other countries. So, insofar as this point is concerned, I very much sympathize with the difficulties faced by the Financial Secretary but in spite of my sympathy for him, it is still necessary to think up solutions. Members and the public can perhaps analyse this in detail. Despite such an enormous injection of resources by the Financial Secretary, why do they still consider the services of the HA so unsatisfactory? A most direct feeling is that the waiting time for many services is very long, and it takes a long time queuing up for services. For a cataract surgery alone, the waiting time may be three years, which is, of course, far from satisfactory. In fact, has the Financial Secretary, being the controller in the Government responsible for making financial provisions to the HA, looked into how the HA utilizes its funding? Is its service delivery efficient? Is there a problem in the system that results in the funding entirely not being able to improve the services as if the money injected has all vanished into thin air?

Let us take a look at the situation of the HA. The distribution of resources by the HA is uneven. If we look at the provisions made internally by the HA to different Clusters per 1 000 population, we can see that the difference can be as great as 100%. The annual provisions made to the New Territories West Cluster to which Tuen Mun Hospital belongs is around \$3.7 million; the Kowloon East Cluster which covers United Christian Hospital is around some \$3.1 million annually — these are last year's statistics — but the Kowloon Central Cluster receives some \$8 million annually per 1 000 population, while the annual

provisions made to the Hong Kong West Cluster is some \$6 million per 1 000 population. In fact, the uneven distribution of funds is directly reflected in the waiting time of patients in different Clusters. Concerning the provision of additional resources, if the new resources are not put into areas with a shortage of resources but are given to areas where resources are already adequate, the services will not see any improvement no matter how many more resources are provided, because there will always be two or even three Clusters not being provided with resources and so, they will never be able to improve their services for patients. In view of this, it is impossible that the Government, which allocates funds to the HA and procures its services, or the controller overseeing the HA, does not study why the HA's distribution of resources can be so uneven.

Moreover, I have no idea why the cost of the HA services can be so expensive. This year, the Financial Secretary has increased the funding to the HA by 11.7% but if we look at the unit cost of HA services, for instance, the cost per attendance at specialist out-patient clinics, we can see that it will be increased from last year's \$900 to \$1,090 next year, an increase of \$180 (sic) or 20%, which is far higher than inflation. Yet, no explanation has been given as to why, despite the cost being much more expensive, little improvement has been made to the services.

The third point is very important and that is, insofar as the system is concerned, when the Government allocates funding to the HA, is there any incentive for the HA to improve its services? The present situation is that the public and Members are dissatisfied with the services delivered by the HA and so, they call on the Government to increase funding for the HA and inject more resources into it. But after the services are improved, does it not mean that the HA will not have any excuse to further fight for resources? Under such a system, after receiving the funding, the HA, being the service procurer and at the same time the service provider, basically does not see any incentive to improve its services. All it will do is to maintain, intentionally or unintentionally, the services that the public consider unsatisfactory, so that the public will exert pressure on the Government, or the public, the media and Members will exert pressure on the Government on its behalf, calling for an increase in funding. Such being the case, if the problem in the system is not addressed, a vicious cycle will follow, and irrespective of the amount of funding provided, the services will not in any way be improved. If we use the percentage of healthcare resources adopted by foreign governments or European and American governments, that is,

6%, as a standard, it may take 30% or even 35% of government expenditure in order to meet this standard.

How can we monitor the services of the HA? First, the European and American governments have also adopted this approach, that is, tasking an independent department to audit the efficiency of the delivery of healthcare services and whether the funding is well spent. This will be carried out by an independent department. I would suggest that Hong Kong can even consider dissolving the HA. Dissolving the HA does not mean closing down the hospitals or putting the hospital services to a halt. The hospitals and the delivery of services will continue, just that the duty to procure services will be taken up by the Government itself. If any irregularity is found or if certain areas need additional resources, the Government will make provisions for procurement. That is, a more target-specific approach will be taken.

For example, Mr CHAN Hak-kan called for the provision of obstetric service in Tseung Kwan O earlier on. In fact, is there a demand for obstetric service in Tseung Kwan O? Several months ago, I had a meeting with residents in Tin Shui Wai and they also called on the Government to provide additional resources for the development of a new hospital. The hospital under construction now has not been completed, but they are already calling for the development of another hospital. It is because Tin Shui Wai is actually very large, and this district in the New Territories may perhaps be as large as the whole Kowloon Peninsular. If each patient hopes to find a hospital right after he steps out of the door, what should the Government do? In fact, there is a very simple and direct method. Since the unit cost of HA services is so expensive as it costs \$1,090 per attendance at specialist out-patient clinics, the Government can procure such services direct. This can be done through the setting up of a mechanism and the use of healthcare vouchers. For instance, based on the unit cost of HA services and if it costs \$1,090 per attendance, healthcare vouchers valued at \$1,090 can be provided to residents in need to procure the service. In this way, there will naturally be service providers setting up facilities in the district to provide services to the public direct. While this will not incur any additional cost for the Government, it can also be an efficient option. To the public, they will not have to travel long journeys to access service while enjoying the right to choose, and this can shorten the waiting time substantially. Therefore, the Government should start planning how the HA services can be monitored to enhance the cost-effectiveness of the services. The Government

should also consider how best services can be procured directly through a mechanism to effectively utilize the surplus manpower in the private healthcare sector.

I still have some speaking time, so I would like to reiterate several points to the Financial Secretary. Regarding the provision of \$50 billion by the Financial Secretary before as a seed fund for promoting healthcare financing, many Members already expressed the wish for this fund to be turned into a revolving fund, so that interests can be accrued and ploughed back into the fund. This will ensure the continuity of the fund, and the fund would not be exhausted two decades down the road. By the same token, regarding the commendable proposal of injecting \$10 billion into the Samaritan Fund, I hope that the Financial Secretary can consider allowing this \$10 billion injection to run on a rolling basis. In the past, the entire Samaritan Fund could perhaps add up to only \$1 billion in total and if it relies only on the income from interest, the annual yield of \$50 million is perhaps not enough. But with a fund of \$10 billion, an interest of \$400 million or \$500 million can be yielded annually and if the fund runs on a rolling basis and hopefully yields an annual interest of \$400 million or \$500 million, then according to the past figures which show that about \$100 million is spent out of the Samaritan Fund per annum, the revenue from interest alone can provide assistance to more patients and meanwhile, the threshold for vetting and approving applications can also be lowered. If the Government can allow the interest of this fund to accumulate, it will show the Government's commitment and its willingness to really put the fund into the pockets of patients, rather than keeping it in its own pocket. As it will be a revolving fund, which means that the interest yielded can be used, this can guarantee the consistent operation of the fund and inspire greater confidence in the system.

There is another point that I have mentioned before. I believe the next-term Government will very likely implement it, as the several Chief Executive candidates have undertaken to provide tax deduction for private medical insurance premium. I believe this will be ultimately put into practice in a year or two. There is one more point that I would like to mention. I heard yesterday the calculating Mr CHAN Kin-por question the Government why, when our healthcare expenditure has been rising year after year and so does the unit cost for healthcare services, the fees collected from non-eligible patients nevertheless remain at the levels of 2003. Let me explain this in detail. For example, the cost of specialist out-patient service is \$1,090 per attendance, but

the fee payable by non-eligible patients is \$700, meaning that the Government provides a subsidy of \$390 for each such foreign, non-taxpayer patient. The cost of hospitalization is \$4,250 now and the Government is still charging \$3,300. Mr CHAN Kin-por has done some computations and found that last year, the Government already paid \$70 million in these subsidies alone. I think revising the fees for non-eligible patients actually involves a very simple procedure, and I hope the Financial Secretary can consider it.

President, I so submit.

**MR JAMES TO** (in Cantonese): President, in fact, the community really does not care very much about the Budget debate. Why? There are several days more to go before the Chief Executive Election and there are many unexpected twists and turns of events. Naturally, the many pieces of interesting news that have cropped up have stolen the limelight from the discussion on the Budget. However, Members all know that no doubt a new Chief Executive will be returned soon — I do not know if the election would be aborted — and once a new Chief Executive is returned and if the elect is the hot favourite at present, there would be a regime change and everything may be pulled down and started from scratch again, and all existing policies and officials would become history. Therefore, would the public really care about the Budget this year? Of course, there are also few long-term measures in the Budget this year. Therefore, if we want to discuss it in detail, we may have to see who will be the new Chief Executive first and what his beliefs in the fiscal management and governance of Hong Kong are. Even civil servants will have to observe the policy objectives of the new Chief Executive carefully, so this is understandable.

In that case, what needs to be discussed today? In recent days, the members of the Election Committee are increasingly concerned about the polling on Sunday and some people said jokingly — perhaps half jokingly and half seriously, and I can see that Secretary Raymond Tam is also here — that the most important thing was to spend several hundred dollars on buying some cloth to cover the top of the voting booths, just in case closed-circuit cameras were installed overhead. In that way, it could be ensured, at a minimal cost, that the polling would be by secret ballot. I wonder if it has occurred to Secretary Raymond TAM that the issue of a provision of at small as several hundred dollars for the purchase of some cloth to cover the top of the voting booths or for buying

better safes to lock up the ballots, so as to prevent agents from opening them to test for DNA, could be raised in the discussion on the Budget today. They have described the situation in this way, suggesting that safes and cloth be purchased. Of course, I am also just joking.

Today, I am going to focus my discussion on matters that can be implemented quickly in the coming months and what I think the Government should do within its purview. I will focus on several points. The first point is the "N have-nots", whom many Honourable colleagues have mentioned time and again. I have indeed said to the Financial Secretary on many occasions that the problem does not lie in scarcity but in uneven distribution. The Chairman of the Steering Committee on Community Care Fund, that is, the Chief Secretary for Administration, said recently that \$1,000, which is equivalent to two months' rent for a bedspace, would be granted to people renting "sub-divided units", and that in this way, over 10 000 people would be helped. I think this is really going too far. Come to think about this. Many people, including members of the middle class or hundreds of thousands of households living in public housing, are all given reductions, and other people owning residential units are also given a rates waiver. If a person living in a "sub-divided unit" or in difficulty is rendered only such limited assistance, I think we are not being fair to them.

This is not the first year that we discuss this subject matter. We have discussed it for four years. We have discussed it for at least four years. Had the Government examined this matter seriously, the Government would not have realized only at the last moment that luckily, there is still the Community Care Fund (CCF). What if there were no CCF? Would we make drastic changes, as was the case last year? In fact, changes should rightly be made because this is a matter that has been discussed for several years. We did not put the Financial Secretary in a difficult situation by raising an issue all of a sudden. This is not the case. Therefore, I hope the Financial Secretary can make good use of the remaining time. No matter if he would deal with this matter himself or let the CCF deal with it, I hope the level of assistance could be raised substantially, so that all parties would find it fairer and more equitable.

The second point that I wish to raise is related to the budget for the Securities and Futures Commission (SFC), which is examined by the Financial Secretary. We have also discussed it in detail in the relevant panel. If it is

possible for the surplus in the budget of the SFC to sustain its operation for so many years without having to levy any charges, I wonder if the Financial Secretary can still approve the budget without looking. Although at present, the so-called concessions have been made by waiving or reducing licence fees, are they really adequate? If the whole mechanism is designed to spend on the market what is taken from it, so as to exercise effective supervision and if the amount of money levied is more than the amount required and the reserve is so large, should we not discontinue levying charges in this way?

In fact, this argument is easily comprehensible. We cannot say that the money is paltry to the people in the market. We must remember that what is charged is not tax but charges for the purpose of supervision. The SFC also puts forward such proposals as buying office premises but even if it wants to buy its office premises, its financial position is actually very sound. Therefore, I hope the Financial Secretary can be very cautious when giving his approval or non-approval, or consider returning the budget to the SFC for further study. This is the personal responsibility of the Financial Secretary.

The third point that I wish to raise is related to the new policy or the pilot policy of the Urban Renewal Authority (URA) on the resumption of industrial buildings. President, I am a Non-Executive Director of the URA and I have begun to make preparations to take over this matter and study how best the pilot scheme can be implemented properly. However, I wish to tell the Financial Secretary or the relevant Director of Bureau that although industrial buildings are not intended for residential purpose, in fact, some long-time small owners of industrial buildings would consider whether or not the level of compensation is just the same as that offered by the URA in the past in dealing with the land leases of industrial buildings.

Is this amount of compensation adequate? Can we offer them a scheme that they would consider reasonable? If the amount of compensation is very low, the result would simply be a failure of the pilot scheme. If it is not successful, further trials would be conducted. However, I think that if the reorganization carried out by the URA or the relevant government departments is discredited as a result, this would lead to even more problems. Nevertheless, we think that if the amounts of compensation offered are too high, it would be necessary for the URA to think about this and even the Government will have to

give some input. I think it is unlikely that the amounts of compensation would be too high, rather, I am more concerned about the amounts of compensation being too low. As a result, when the process of voluntary purchase starts, it is possible that only 30% to 40% can be bought but there is no justification for carrying out a compulsory acquisition of the remaining 60% as this would be going too far, would this not? How can the legal requirements be met? I decided not to ask the authorities to study if there is any sound legal basis applicable to industrial buildings in the legislation. In fact, there has been little discussion and even the issue of compensation has not been raised.

In addition, what the Government may have to consider is that it is also necessary to make satisfactory arrangements under this policy for the people affected, in particular, for people or groups in the arts and cultural sector having to use such buildings and an enormous stake in these industrial buildings. After the completion of the development projects, since the plot ratio will have perhaps increased and even improvements will have been made to the design, can some places be reserved for them at low rentals? I think this is something we can do.

Of course, I have also said that there are two very simple points concerning the policy on security. Recently, Members are certainly all very much concerned about the conduct, integrity and credibility of public officers — and even the Chief Executive. Under the existing system, the Independent Commission Against Corruption (ICAC) is responsible for investigating abuse of power and violations of the law. However, we must bear in mind that the head of the ICAC is appointed by the Chief Executive. If it is necessary to investigate the Chief Executive, the credibility of this system will be in serious doubt. Even if you say that several years ago, we already said that the ordinance should be amended, so that when necessary, the head of the ICAC can report directly to the Secretary for Justice who then will give the relevant information to the Legislative Council — no matter if prosecution will be instituted or not — so that the latter can consider if an impeachment should be activated or not; I think that even if such an amendment had been made, we still would have to look ahead by conducting a review and considering if it should be stipulated in the Basic Law that an appointment to post of the Commissioner of the Independent Commission Against Corruption should, as in the case of the Chief Justice of the Court of Final Appeal, be endorsed by the Legislative Council. That means the Legislative Council has to agree with the appointments. We have to bear in

mind that the Legislative Council will have to agree with such appointment. I think there is no particular difficulty in terms of the system or any problem in respect of the principles. Why? I think that since this mechanism can be adopted with regard to the Chief Justice of the Court of Final Appeal and since the ICAC is also a fairly important institution, given such an embarrassing situation, its credibility should at least be reinforced by means of the system.

Second, specifically, at present, all the members of the Operations Review Committee (ORC) are appointed by the Chief Executive. I have raised this matter for more than a decade, that is, I think that in the composition of the ORC, there should at least be several members who are not appointed by the Chief Executive. Otherwise, in deciding whether or not to recommend instituting prosecution against the Chief Executive in a report and when the ORC has to make the final decision on whether or not to approve it, if it so happens that the terms of some members are decided by the Chief Executive in question, will such a system have any credibility? Of course, it would be rather difficult to change all members into members who are not appointed by the Chief Executive, but at least, should not there be a small number of such members? For example, can a few people be elected from among or recommended by Legislative Council Members?

Third, I think that since the Chief Executive has appointed Andrew LI to head a committee in conducting a review, if relevant legislative amendments can be proposed and passed before the expiry of his term, so that the Chief Executive is also subject to the Prevention of Bribery Ordinance, this would be the most desirable course of action.

President, lastly, I wish to talk about the work of the Police Force. I will talk about some main points as quickly as possible. If Members have read the news today, they would know that the trading platform system of the Chinese Gold and Silver Exchange Society were subjected to attacks. Earlier on, the systems of some other financial institutions were also subjected to attacks, including the systems of the Stock Exchange and some other private organizations. Some private organizations were even blackmailed. I think that nowadays, the whole world is fairly dependent on trading platforms using electronic technology, so even though it was only the website of the Stock Exchange for the publication of information that was attacked, or only our trading websites that are attacked or only threats are made to attack them unless demands

of extortion are met, Hong Kong's status of as an international financial centre would still be seriously threatened. I know that many private organizations, in order not to get into trouble, have their security information disclosed or arouse concerns about their transactions, have secretly paid money to hackers. There are also such reports in countries overseas from time to time. It seems there are no reports of such actual instances in Hong Kong yet. I only hope that the police can pay particular attention to this trend, in particular, they have to double the resources committed to dealing with such situations.

I said a decade ago that in the future, when we talk about triad societies or the ways of making money, it might be about looking for several hackers with great flair who might only be in their teens. Of course, they might ultimately resort to inducements or threats in committing blackmail. Even if these people were confined to an island in the Southern Pacific, so long as they have access to the Internet, they can still make a lot of money. Such an age has already dawned. Therefore, I hope the police would elevate this matter to a very high level and discuss it together with all sectors and stakeholders in Hong Kong, as well as reviewing whether or not there are adequate resources and legislation for us to take effective precautions.

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

**MR PAUL TSE** (in Cantonese): President, owing to the impending government changeover, a colleague stated just now that he had no idea if it would be worthy to debate the Budget. Nevertheless, this is, after all, one of our major duties. It is also hoped that the debate can be put on record, so that it can be used for reference in due course, even though there might be a reshuffle of government officials. With your indulgence, President, I would like to make a few points from the angle of tourism before briefly discussing other areas.

President, as in the past, there is little to write home about tourism in either the Policy Address or the Budget. Not only are there few paragraphs about tourism, but what is mentioned is just like some old tunes repeated endlessly. This year is no exception, despite the Financial Secretary's emphasis on the importance of tourism to Hong Kong by briefly citing several figures to say that

2011 saw the number of visitors reach 42 million, a profit of \$250 billion and the recreation of 220 000 jobs for Hong Kong people, representing an increase of 50% and 70% in the number of visitors and revenue respectively over 2007. Certainly, these figures are excellent.

Just as mistaken revenue and estimated losses are found in the budget every year, the same thing happens with tourism, too. Basically, apart from some mistakes in reference to certain years, there is nothing wrong with the figures — anyway, they are expected to rise. Nevertheless, it appears that expenditure is not proportional to the estimated number of visitors and broadening of revenue. Very often, expenditure on tourism is not truly complementary so as to reflect that tourism is one of the four important pillars of our economy. Do we really wish to expand tourism properly in this direction and according to this notion?

President, let us examine paragraphs 125 to 130, that is, the paragraphs about tourism. Basically, they are almost all about the Ocean Park, Disneyland and the cruise terminal. The only exception is the Mega Events Fund. Indeed, I absolutely agree that the operation of the Fund be extended. This weekend, that is, a couple of days later, the Rugby Seven may attract even more public attention than the Chief Executive Election. Certainly, it has taken years to cultivate this event. I agree that the operation of the Fund be extended for five years. Meanwhile, I hope and believe the Government will make complementary efforts in relaxing the relevant rules to allow us to, for instance, continue to offer subsidies to some hugely successful events on an annual basis until they truly gain mature growth.

For instance, the Dragon and Lion Dance Extravaganza, spearheaded by Mr CHAN Kam-lam, has been held for two years. As far as I remember, the President was once its officiating guest and the event was hugely successful, despite its short history of only two years. Nevertheless, although the event appeared to be quite successful in the first year, it was immediately scaled down in the second year, why? It turns out that the amount of subsidy received in the second year must be less than that in the first year according to rules, and the amount of subsidy will be reduced year on year. To a certain extent, this approach might be too rigid, thereby stifling some events which have to take time to cultivate. I hope flexibility in this respect can be slightly adjusted.

The second point I would like to raise concerns the events subsidized by the Mega Events Fund. Under the extremely stringent rules in the past, they had to be non-commercial events. But very often, some really excellent events might be unable to meet this requirement because they often carried some commercial elements. So long as we do not emphasize making money, introducing some commercial elements is understandable. When the time is ripe, allowing a certain measure of fundraising can be considered, thereby enabling the Mega Events Fund to assist some truly international and attractive events. I believe the Government will give a response and make complementary efforts in this respect very soon.

President, insofar as hotels are concerned, they are after all not enough, although there are 190 hotels offering a total of 62 000 rooms in Hong Kong. The measures taken by the Government on this front include providing land and revitalizing factory buildings, though there is little to write home about its result. According to my understanding, one of the reasons is that the relevant rules are relatively rigid. Furthermore, since excessive speculation is very often allowed under the rules, the so-called revitalization of the relevant projects will actually lead to someone forcibly occupying a place and submitting an application without doing anything in concrete terms except hoarding the land for speculation, which is not helpful to the market.

Just now, Mr James TO asked whether it was possible to revitalize the Urban Renewal Authority as well as its scope so that factory buildings could be included as well. I support giving active consideration to this point so that the entire hotel industry can be further expanded rather than providing an additional 50 hotels and 9 000 rooms in 2015 or 2016. While there is a huge demand for hotel rooms, there is often a mismatch in the demand for rooms in terms of quality and quantity. In my opinion, besides hospital beds, the most serious mismatch and inadequacy can also be found with hotel rooms.

President, after a quick discussion on a few issues concerning tourism, I would like to come back to issues concerning the philosophy of financial management. As far as I can remember, it should be Mrs Regina IP who spoke at length about the Budget's erroneous forecasts, so I need not make any further elaboration. Another point I would like to raise concerns the civil servants' mindset, namely the excessive emphasis placed on administrative expediency.

Certainly, civil servants hope to act as fairly and impartially as possible without attracting criticisms. Sometimes, it is indeed quite difficult to do so. However, if they overdo in dealing with everything in a direction more inclined to a "civil servant-oriented" approach, then whatever they do, be it handing out money, using the Community Care Fund, or offering transport subsidy, the beneficiaries might not be benefitted in concrete terms. Another point certainly concerns electricity tariffs. There is no need for me to add anything, as some Members have already made some criticisms.

President, when it comes to the philosophy of financial management, I need not make any further elaboration as many members of the public, colleagues and even government officials have also been constantly emphasizing this philosophy. In a court case involving an estate amounting to tens of billion dollars, for instance, the original judgment was overturned by the Court of Final Appeal (CFA) after the case had been heard for quite some time. The reason is as simple as ABCs, and that is, which party should bear the onus of proof. Even though the matter is very simple, it has to be decided by the CFA. Hence, with regard to some very simple principles, we must constantly remind ourselves that we may very often make mistakes or obstinately stick to a wrong course in doing what we all take for granted that we know, including "keeping expenditure within the limits of revenues", a pet phrase of ours.

Certainly, this is a duty stipulated in the Basic Law. However, it does not mean that we always have to stick to it rigidly. What is more, if we find from our past experience frequent cases of mismatch and discrepancies between the estimated and actual surpluses, we should do some soul-searching. In this respect, we often express our hope to improve the business environment. However, when it really comes to allocating funding for promotion in this respect, the Government appears to be merely engaging in empty talk without really putting the ABCs of philosophy of financial management into practice. As we say that tourism is one of the four economic pillars of Hong Kong, I hope the Financial Secretary will put his words into actions, especially for the tourism sector.

Compared to other regions and countries, the expenditure we spend on the development of infrastructure for tourism is very small, and the strength is very weak, too. But relatively speaking, the expenditure we spend on publicity is

absolutely not small, for around \$500 million to \$600 million in funding is allocated for this purpose in the budget every year. It is many times higher than that spent by our country, though we are talking about a very small place.

Certainly, I do not mean to underestimate or belittle the work of the Hong Kong Tourism Board in recent years. In particular, some progress has been made in recent years, though it must be proportionate. When we wish to promote a piece of goods or service, it must have adequate appeal and novelty and constant progress before results can be achieved with publicity funding. On the contrary, if too much money is injected into publicity on a piece of goods or service that has had no breakthrough in quality and quantity, then no matter how it is promoted, it is just like new wine in an old bottle or marketing false bubbles, just as the unscrupulous sales practices criticized frequently by colleagues.

Speaking of unscrupulous sales practices, I notice that Miss Tanya CHAN has mentioned and kept emphasizing the sales practices adopted by a beauty parlour. I certainly agree to combating unscrupulous shops that hurt tourism and consumers, especially in relation to sales practices involving prepayments, coercion and coaxing, cooling periods, and so on. I also welcome the Bill which is tabled by the Government and currently under scrutiny by this Council. Having said that, I must remind colleagues that in accepting these cases, particularly the colleague accepting this particular case, I notice that some accusations may not be substantiated. Like the accusations made between the candidates in the Chief Executive Election, some of them may drag on and call for follow-up actions. I hope colleagues will understand that some accusations made outside this Council, if found not substantiated, may have legal consequences, including defamation or trade libel.

President, please allow me to say a few words about several other matters. While some colleagues have mentioned the Community Care Fund, some have repeatedly mentioned the "N have-nots". President, I would like to remind Members that some Hong Kong people are even worse than the "N have-nots". Who are these people? They are Hong Kong people who have lost their freedom. President, at this very minute when I am talking, many Hong Kong people are locked up in jail in different countries. I will not talk about prisoners of conscience for the time being. I would like to mention in particular the

judicial system of the Philippines. Relatively speaking, besides that of Hong Kong, I am quite familiar with the judicial system there.

I believe dozens of Hong Kong permanent residents are currently serving sentences there, including at least seven who have requested the Security Bureau to extradite them back to Hong Kong to serve sentence here through a programme for exchange of prisoners. President, why did they make such a request? Supposing you are serving a sentence somewhere and you have no freedom and are worse than the "N have-nots" — you have to pay for the water you drink daily as well as the water required for bathing and washing your face at 35 peso per 20 litres of drinking water and five peso per 30 litres of water for washing. Besides, your shelter is not provided by the prison. Instead, you must pay for it, and a 60 sq ft cubicle will cost you more than 10,000 peso. In addition, the government will pay only 50 peso (approximately HK\$10) for your daily meals. Other than that, you must pay for everything, including the electricity you use. Likewise, you have to pay for any additional piece of clothing as you will be given only one piece of clothing. Furthermore, you will be constantly coerced, lured and threatened by the local prisoners or get killed at any time if you do not listen to them. Under the circumstances, President, every dollar can "save life".

Currently, we are being generous to all people in Hong Kong by giving each one of them \$6,000. Even many new arrivals who absolutely have no ties with Hong Kong or some new arrivals who have stayed in Hong Kong for a not too long period are also eligible. It does not matter. But due to the extremely rigid policy of the Hong Kong Government, if some permanent residents who have lived in Hong Kong for years unfortunately get into trouble outside Hong Kong, they will find it impossible to get this sum of money if they do not have an updated identity card or a Hong Kong bank passbook and no one makes arrangements for them.

In this connection, Financial Secretary, I hope the Community Care Fund can lend a helping hand because every dollar can be used to buy water and save lives. For these people who are worse than the "N have-nots" and even deprived of freedom, the \$6,000 is very, very important. It may even be their only hope of survival.

Certainly, I all the more hope that the Security Bureau — it is somewhat outside the scope — can expeditiously deal with this matter and refrain from shirking its responsibility with excuses such as red tape or missing documents to justify its failure to deal with these exchange applications which were submitted a long time ago. This will enable Hong Kong residents to see that we really care about Hong Kong people, especially those who are worse than the "N have-nots" and deprived of freedom.

President, as some colleagues, particular Mr CHAN Kin-por, have mentioned the mismatch in healthcare resources, I need not elaborate anymore. I agree with his comment, too. Likewise, there is no need for me to elaborate on the mismatch in school places.

President, I would like to take this opportunity to say a few words about the pollution problem. To a certain extent, this problem may have some bearing on tourism. Why is there such a high ratio of Mainland visitors coming to Hong Kong? Certainly, Hong Kong is attractive in many ways. But why does our progress in the international tourist market appear to be pretty slow and negative growth has even been recorded in some areas, despite our vigorous efforts in promoting tourism? One of the major factors is that people have an impression that our air pollution and environment are, relatively speaking, polluted.

While Mainland visitors may regard Hong Kong as a paradise with relatively less pollution, visitors from Europe, the United States and Australia find the air here quite poor. Given our abundant surplus — of course, a certain degree of difficulty will definitely be encountered in practice because Hong Kong is not necessarily the source of pollution — in fact, should we wish to buy the most precious clean air, some policy concessions may be considered to help Hong Kong factory owners to make more efforts in eliminating air pollution. Although the money will thus cross the boundary, it will eventually be helpful to Hong Kong people as a whole as well as Hong Kong itself — for healthcare expenditure can be reduced with better air and water quality. Hence, this is a smart spending that may bring more gains than losses.

In short, I hope my speech this time around has fallen on attentive ears. Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): So, no other Member wishes to speak.

**MS MIRIAM LAU** (in Cantonese): President, I move that the debate on the Second Reading of the Appropriation Bill 2012 be adjourned to the meeting of 28 March 2012.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the debate on the Second Reading of the Appropriation Bill 2012 be adjourned to the meeting of 28 March 2012.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Council will continue with the debate on the Second Reading of the Appropriation Bill 2012 at the meeting of 28 March 2012 when public officers will respond. If the Bill receives its Second Reading, its remaining stages will also be proceeded with at that meeting.

**MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Member's motion: Proposed resolution under the Legislative Council (Powers and Privileges) Ordinance.

I now call upon Mr LEE Wing-tat to speak and move the motion.

**PROPOSED RESOLUTION UNDER THE LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE**

**MR LEE WING-TAT** (in Cantonese): President, today I move that the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) be invoked to inquire into the various problems surrounding the Chief Executive Mr Donald TSANG, as exposed by the media over the past couple of months, including his acceptance of hospitality extended to him by some tycoons and his leasing a penthouse in Shenzhen.

Let me first talk about some history of Hong Kong. In the colonial times when we lived as children, there was corruption, too. I remember that when I was a student at university, I had looked up the relevant documents and learnt that in about 1972 or 1973 there was an anti-corruption campaign of "Fight Corruption, Catch GODBER". I think the President might still be a university student at that time. But I was not yet a university student. This Mr GODBER was a most infamous and corrupt official during the colonial era. At that time, many of these expatriates made a huge fortune from taking bribes. Of course, those who were on the take were not limited to the expatriates. There were Chinese policemen who did the same. The people of Hong Kong saw with their own eyes this serious problem of corruption at all levels of the Government then. It was a tormenting experience for them. This in turn led to many social movements. Students and members of the public staged protests and made petitions. Some university students suffered head injuries as they were hit by the batons of the policemen during a rally in the Victoria Park. Some were arrested. Then after a very long time, the Colonial Government decided to set up the Independent Commission Against Corruption (ICAC). The public has very high expectations of the Government and it is hoped that the Government can be clean and fair, that it will abide by the law and uphold the rule of law. For more than 10 years after the reunification, the people have a great trust in the ICAC because it can launch independent investigations into officers of all ranks

in the Government, which is very important to keeping society clean and free of corruption.

President, what I want to discuss today is the large number of events concerning Mr Donald TSANG, the Chief Executive, as exposed by the media over the past two months. These include the hospitality extended to him by some tycoons and his leasing of a penthouse in Shenzhen. We want to find out if any criminality is involved and whether his conduct conforms to public expectation of him, as well as the code which he has formulated to regulate his own conduct.

When we discuss these issues, we should note whether these are supported by facts and whether such facts have been given adequate expression. Unfortunately, in this incident the Chief Executive only gives a response and explanation whenever anything is exposed by the media. He has not made a statement on everything concerning his acceptance of hospitality offered by the tycoons all through the years and his leasing of the Shenzhen penthouse a couple of days or so after the problems have come to light. There are 10 mysteries surrounding the incident which remain unsolved even today. We have written to the Chief Executive's Office (CEO) asking for the provision of relevant information. It is disappointing that the Chief Executive has not done so.

Now I wish to briefly point out some of these unresolved mysteries.

The first mystery. Of all these trips made, who were the tycoons in his company when he accepted hospitality on each occasion? This list has not yet been disclosed. Why is this list required? This is because it is not just a matter of the privacy of a certain person or the confidentiality related to just one person. If we know who these tycoons are, we would have an idea about whether or not the Chief Executive's acceptance of hospitality may have involved public interest, deferred transfer of benefit or any potential transfer of benefit. I know that the Chief Executive, as the head of the Government, is required to meet people from all walks of life, including people from the business sector. I do not object to his doing that. But if he meets with the same businessman or developer on a number of occasions in private, then the public will have reason to question why the Chief Executive maintains such a close tie with that particular person. I would think that this query is justified.

There is another mystery which I have mentioned before. In the Question and Answer Session held in this Council on 29 February, the Chief Executive said that he had got a set of rules governing his potential conflict of interest and on whether or not he could accept any hospitality extended to him. However, in the Question and Answer Session, an Honourable colleague asked him whether or not he could provide a text of such rules to us. He did not respond to that question. And on 8 March, when the Committee chaired by Mr Andrew LI asked the CEO for a copy of the internal rules on the acceptance of hospitality, the CEO replied that there was no formal record of any such internal rules. President, even if I would not say that the Chief Executive lied in the Question and Answer Session, at least he deliberately covered things up. He wanted to give people an impression that there was a set of written rules governing his acceptance of hospitality. But it turned out that there was no such thing. It is because he was forced to give a further explanation that it was revealed once again that he had done something wrong.

After that Question and Answer Session, there was another scandal regarding his acceptance of hospitality. It is about his second son staying in a president's suite in a deluxe hotel. The media are asking the question today why his son who was still studying in a university at that time could manage to pay for such an expensive suite. And also, according to the rules of that particular hotel, only gamblers who buy \$5 million or more worth of chips from the casino there can check in such suites. To date, the Chief Executive has not yet explained why his second son could have leased that suite.

President, I have got some other mysteries too, but as time is not enough, I would not talk about them one by one. In this present incident, the impression which the Chief Executive has given people is that he is covering things up and advancing specious arguments. For each of these scandals exposed by the media, it is only after a scandal comes to light that he makes a response. And the responses made by him are piecemeal and there is no attempt to tell all the information at one time. He says that he has got a set of rules to govern his conduct, but that is actually a lie. It is only when people from Mr Andrew LI's office made enquiries about such rules that he said that there was no written record to prove the existence of that internal set of rules.

President, what is wrong? Let me give an example. If Eva CHENG, the Secretary for Transport and Housing, or Secretary Carrie LAM has accepted the

hospitality extended to them by a developer and took a trip from Macao to Hong Kong on a luxury yacht, how would the public react to that? It would be very simple and that is, people will think that this is solid proof of the collusion between business and the Government. No matter how Carrie LAM and Eva CHENG would want to explain, no one will believe that they will be impartial in dealing with real estate and housing policies. Of course, what I have said just now is only a hypothetical scenario. I know that both Carrie LAM and Eva CHENG will not do it. They are two Directors of Bureaux whom I respect, despite the fact that I often debate and even argue with them.

Secretaries, permanent secretaries and other senior officials all know that their conduct is governed by which set of rules and they will not dare to pass that line. This is not only a question of whether any actual benefit has been accepted, but a question of whether the public will query that there is transfer of benefit or potential benefit and whether there is any attempt to favour any party in policy formulation since there is an impression among the public that the Chief Executive is on very intimate terms with the tycoons and developers. All these suspicions cannot easily be given a plausible explanation. I really do not know why Donald TSANG, having been a civil servant for decades, does not understand such a simple truth.

President, lastly I wish to spend several minutes discussing whether or not it is reasonable when some Honourable colleagues object to my invoking the P&P Ordinance to investigate this matter. They have just one justification and that is, the ICAC is conducting an investigation into that matter and so this Council should not probe into it. I respect the way the ICAC works and I have confidence in it. But Members should remember that the ICAC is conducting a criminal investigation. A criminal investigation should be conducted in accordance with the law and there should be unequivocal precedents available and the threshold for prosecution is very tall. A prosecution can be initiated only when there is proof beyond reasonable doubt and the case has to be heard and decided in a court of law. Three weeks ago, former Secretary for the Civil Service Joseph WONG wrote an article in the newspaper and concluded largely to the effect that the ICAC would not have sufficient evidence to instigate a criminal prosecution against Donald TSANG. Of course, that is his own judgment, but it must be noted that such a judgment is justified, for the threshold for criminal prosecution is very tall. This is the first difference. The second difference is that the investigation conducted by the ICAC will not be made

public. The third major difference is that the investigation I wish that this Council be authorized to undertake is not a criminal investigation. This Council will not determine whether or not there is any act of corruption done by Donald TSANG. What we want to achieve in such an investigation is to ask him to produce all the information about his acceptance of hospitality extended to him by the tycoons and developers so as to prove that his acceptance of such hospitality is in line with or in breach of the code of conduct governing the probity of civil servants, or those rules of conduct according to him. Things of that sort are not related to any law, nor do they fall within the meaning of a criminal investigation. So I hope those people or colleagues who object to conducting an investigation would think carefully what they are in fact opposing.

I often cite this example to reporters. I would say that it is not unlawful if the Chief Executive goes to a ballroom when he is off duty. How can this be unlawful if he has paid the bill in full? Is that right, President? It is not unlawful if the Chief Executive likes dancing and goes to a nightclub, provided that he pays the bill in full. But will an act like this meet the expectation of the public on how the Chief Executive or any top official should spend his leisure? Would it be considered fitting and appropriate if they go to such places after work or in their spare time? Honourable colleagues, it is not unlawful to do something like this. What we want to probe into is this area. Therefore, it is not right when some Honourable colleagues say that since the ICAC is conducting an investigation, we can leave this matter aside.

Lastly, President, I would like to talk about something from the bottom of the hearts of some friends of mine who have become civil servants after their graduation from university. I know that they have been feeling very upset lately. This is because the Chief Executive who is the head of civil servants has done something, viewed from any perspective, that has departed far from public expectation of the conduct considered fit for a Chief Executive. He does not deserve any support from us. Thank you, President.

**Mr LEE Wing-tat moved the following motion:**

"That the Panel on Constitutional Affairs be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of the Ordinance for the purpose of inquiring into the Chief Executive of the Hong Kong Special

Administrative Region Mr Donald TSANG's travels to Macao, Japan and Phuket of Thailand with friends between October 2009 and February 2012 involving private passages as well as the accommodation arrangements in such places, and related issues; his renting a penthouse at East Pacific Garden in Futian District in Shenzhen, and related issues; and whether there was any connection between his acceptance of such travel arrangements as well as renting the penthouse at East Pacific Garden and the policies which he had taken part in their formulation and decisions which he had made pursuant to such policies in the capacity as Chief Executive that had given rise to any potential or actual conflict of interest, as well as related issues."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Wing-tat be passed.

**PRESIDENT** (in Cantonese): Ms Cyd HO will move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

I now call upon Ms Cyd HO to speak and move the amendment to the motion.

**MS CYD HO** (in Cantonese): President, I agree basically with the motion moved by Mr LEE Wing-tat. I only wish to move two items of amendment.

The first is supplementary in nature. It is that apart from invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) such that the Legislative Council is empowered to demand the submission of relevant documents, a select committee can be set up to hear the case and find out the truth of the matter by interrogating the parties involved and that select committee is to be set up under the House Committee instead of under the relevant Panel.

The other item of amendment is to delete the date because we are not sure how many pieces of information will ultimately be brought to light for these scandals seem to be non-stop. Especially at this time of the Chief Executive

Election, these scandals are likely to become materials employed by the parties concerned to attack each other. Since we are to defend the public's right to know, it is not our concern that the Chief Executive race can be so fierce and ruthless or how such information will be used. Our concern is how the truth can be found based on such things known to the public. We are not really sure how much more information will be disclosed. Therefore, in order to retain that flexibility, I have deleted the date from the motion.

Recently, many Honourable colleagues and even members of the public have said that the Legislative Council has often resorted to deploying the ultimate weapon of invoking the P&P Ordinance to set up a select committee to investigate a certain matter. I can say that a fatigue syndrome has developed among Members because they have to use their powers and privileges to carry out investigations on so many occasions. But honestly, we do not want to do that. Then why do we suggest so often that such kind of investigations should be conducted? This is because there have been just too many of such stories around. First, there are those stories related to the underground illegal structure of Mr Henry TANG. Of course, the Buildings Department is probing into that. We can see how the Department will handle the case. If it is found that the authorities have handled the case not in an impartial manner, giving people an impression of bias or stringency, then we will have to see whether any favouritism is practiced.

The second thing is about the Chief Executive. Stories about him have been exposed one after another. At first he was found to have stayed overnight on a luxury yacht owned by a tycoon. Then he admitted and gave the details about his trips on someone's private jet and his stay on the yachts of some friends. Of course, the case in which the largest amount of money is involved is his penthouse in Shenzhen. And stories are exposed about the other Chief Executive candidate, LEUNG Chun-ying, and these are about his favouritism and conflict of interest in the concept plan competition for the West Kowloon reclamation.

President, now when so many things have come to light, they are really pointing in one direction and that is, there has been much corruption in the top levels of our Government and these events have cropped up non-stop during the past month. The people of Hong Kong have always put great weight on cleanliness and integrity because they had too much experience of corruption

during the 1960s. In those days corruption was rampant in the police and policemen did not pay for the food they ate and if a street hawker did not want to get arrested, he had to pay a protection fee every day. There was no distinct line dividing the police and the underworld. But now we are astonished to learn that there may be even influence from the underworld in our politics. For a long time the people of Hong Kong have been ruthlessly extorted and treated unfairly and they have seen enough of crimes condoned.

People of our generation used to think that once the ICAC was formed, such things would stop. No one knows that over the month past, as seen from the information disclosed, although we do not have bribe-taking and such like corruption among the front-line enforcement officers on the streets now, there is still corruption at the top levels. And we are very worried that corruption among top-level officials would affect the actual direction of our policies and these policy directions will help foster economic activities of a monopolizing nature. So even if people do not see the taking of bribes on the streets by public officers in uniform, it turns out that in our daily life, as a result of this kind of monopolistic operation and corrupt behaviour, our money just goes into the hands of these giant consortia from our bank accounts through bills on autopay. So President, it is imperative for us to probe into the truth. It is not because we will be exploited by any one of these camps in the Chief Executive contest but that such corrupt behaviour is really closely related to the life of Hong Kong people.

Why do I think that the setting up of a select committee to carry out an investigation and conduct hearings and interrogations would be better than merely demanding the submission of documents? Certainly, I know that the motion moved by Mr LEE Wing-tat does not rule out the option of setting up a select committee and it is meant to look at the papers first. However, I would think that it is not enough to examine the papers alone. So it would be better to put forward the idea of forming a select committee to undertake the investigation. Why? This has something to do with the record-keeping system employed by the Government all along. First, Members know that previously we have had chances of looking at the records of some meetings of the Executive Council and actually there are conclusions found in these records. In addition, the remarks made by the Chief Executive are recorded while those made by other Members of the Executive Council remain anonymous and no record is kept of the names of Members of the Executive Council making the remarks. We have seen records of such high-level meetings as those examined in the inquiry into the outbreak of

SARS in the past. In those records, it was found that the Chief Executive had said that laws should be enacted to make everyone wear a mask. Such remarks were recorded with the name of the speaker concerned for the proposal was made in his capacity as chairman of these meetings.

However, when it comes to other issues such as why the residents of the Amoy Gardens were not instantly evacuated during the SARS outbreak and why residents of the Amoy Gardens were compelled to remain in the housing estate and hence exposed to greater risks of infection, we can see that all these issues were discussed and though there was a difference of views, it was thought that for the time being there was no need for evacuation. However, we do not know who opposed the idea, thus causing more people to be infected. It was only when interrogations were done in a public hearing that we could find out the truth.

Of course, it is not known if someone in the Executive Council really said that one of these days we had to deploy anti-riot police squads and fire tear gas at the protesters. I am sure even if there is any record in the Executive Council of this remark, it is unlikely that it carries the name of the speaker. So with respect to certain matters, there will never be a chance of uncovering the truth of these matters if we do not conduct any public hearing or questionings. Admittedly, there are many restrictions in our record-keeping system. For example, some government departments may not have compiled any information regarding a certain topic and so it gives us a reply that such records are not available to the public.

As Mr LEE Wing-tat has said, the Chief Executive claimed that he has a set of rules governing his behaviour and he has followed it. However, it turned out after questions were posed by us that there is no text for these rules. It is like a "divine book without words" and we have no idea where it is placed. Therefore, for certain matters, if we do not resort to asking questions, we may be led by the officials and make detours under the numerous restrictions imposed by the Rules of Procedure.

In addition, there are a few terms the definitions of which should be clarified in a public hearing. Previously when we inquired into the LEUNG Chin-man case, we drew up a definition for the concept of "deferred benefit". The term "deferred benefit" did not exist before that and there was only the term

"transfer of benefit". But by conducting an investigation through a select committee and holding the hearings, we helped the public understand what was meant by "deferred benefit" and how it actually worked. If we can set up a select committee for this matter through the P&P Ordinance, I hope that a clear definition can be drawn up for two concepts.

One such concept is the so-called privacy. The Chief Executive said that he could not disclose anything because the persons were his friends and this involved the privacy of the personal life of his friends. But we must point out that one of his friends is a billionaire from Chongqing. Before 1997, it was extremely hard for civil servants to go to the Mainland and they had to make many declarations. Even if they had to go to the Mainland on some family business, they had to provide many details for record purposes. So many civil servants just avoided going to the Mainland. So when did this billionaire from Chongqing become a friend of our Chief Executive? I believe it was in 1997 when he was the Financial Secretary or after he had taken up the office of the Chief Executive of the SAR. He came to know this person by virtue of his official capacity. The "friend" we are talking about is not a friend whom he has known since his school days. It is unlike the declaration made by Mr Andrew CHENG two days ago, that he was the secondary school classmate of a senior staff member of the consultancy firm DZT of Mr LEUNG Chun-ying and that person might appear in the hearing. So that "friend" was not the kind of friends one would make when one was a teenager. When the Chief Executive told us that he did not make a declaration because that had to do with the privacy of a friend, we have to clarify things in the public hearing. This can help the people find out the truth of the matter. Moreover, a more important point is that this will help us make recommendations later on how public officers, including civil servants and accountable officials, can be brought under regulation.

President, another important concept is benefit. It does not mean an agreement made in business and a person is given much money, so much that it is more than the market price and he is asked to do something. It is not leasing a luxury flat or that a luxury flat is given to a person as a gift. According to the code of conduct proposed by the ICAC on the conduct of civil servants, benefit includes an act committed or an omission made in respect of the exercise of power. Act or omission is a legal term and put simply, it means whether or not someone is favoured in the exercise of power, or that some favour is extended to a party or more opportunities are given to people whom you know. The Chief

Executive accepted an invitation and paid \$500 for a trip on a luxury yacht from Macao to Hong Kong. Or when he paid a price lower than the market rate and had a jaunt on a private jet for vacation. He also stayed overnight on the luxury yacht. For persons hosting such trips, they may come out and say that the sum of \$500 or so is a very small sum and they do not actually want to take it. The sum is really nothing when compared to the living standard of these tycoons. However, would these occasions of hospitality lead to favouritism later? Would this lead to any act or omission resulting in the approval given to an application for a licence for digital broadcasting? These are things we want to know and what we must help the public understand, that such an act of favouritism has caused a transfer of benefit and a conflict of interests.

President, this Council is duty-bound to look into the truth of the matter. It is because the investigation to be conducted by the ICAC on criminal offences will not be conducted in public. What we want to say is that public expectation on the conduct and probity of a public officer is a requirement on political ethics. Mr LEE Wing-tat was correct when he said earlier that he was using a hypothetical example to discuss the issue of whether the public would accept an act done by the Chief Executive which ran counter to public expectation. I wish to cite an actual example. It is about the former Director of Broadcasting, CHU Pui-hing, who was photographed in the company of a glamorous woman. It was discovered that he had been to some rather unusual places of entertainment. This constituted the reason why he had to resign later. What was the benefit involved in that case? He had paid the money in full. But the act runs counter to the requirements and expectations of the public on the conduct of public officers.

Lastly, I wish to talk about why we often have to invoke the P&P Ordinance. Of course, this is due to the shortcomings or inadequacies of laws on public records and it is also because we do not have any law on the freedom of information. We have been talking about this for years and we have only got a Code on Access to Information. But under this Code on Access to Information, disclosure can be refused with respect to information on defence and security matters. By security matters, it certainly include the case of whether a Member of the Executive Council has made the remark that anti-riot police squads and tear gas will have to be deployed at the end of the day. The Government can act on this Code on Access to Information and refuse to disclose papers prepared by the Executive Council or the records of meetings of any internal meeting of the

Government or a meeting of an advisory body. Since the Government has got so many magic spells and protective armour for these papers and it can come to the defence of another government official or agency, there is nothing we can do to help the public find out the truth of the matter except by resorting to public hearings and interrogations by a select committee.

**PRESIDENT** (in Cantonese): Ms HO, please move your amendment.

**MS CYD HO** (in Cantonese): President, I move that Mr LEE Wing-tat's motion be amended.

**Ms Cyd HO moved the following amendment: (Translation)**

"To delete "the Panel on Constitutional Affairs" after "That" and substitute with "this Council appoints a select committee and that the committee"; and to delete "between October 2009 and February 2012" after "with friends"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Cyd HO to Mr LEE Wing-tat's motion, be passed.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, before I state the stand of the SAR Government with respect to the motion moved by Mr LEE Wing-tat and the amendment by Ms Cyd HO, I wish to reiterate on behalf of the SAR Government that we have all along been making all efforts to uphold the core values of Hong Kong.

The core values of Hong Kong are freedom, the rule of law, democracy, cleanliness, righteousness, justice and inclusion. These are the cornerstones on which Hong Kong stands tall in the world, makes contribution to the Motherland and becomes a civilized and progressive society. They are the institutional edges in which all the 7 million people of Hong Kong take pride. Integrity is the foundation of mutual trust which binds people. It is the moral force which maintains fairness, impartiality and justice in society.

The SAR Government always attaches great importance to the integrity and cleanliness of all the officials on political appointment and civil servants. They are therefore required to observe the highest standards of character and conduct, such that confidence in the Government can be inspired among the public, hence making effective governance possible.

The Chief Executive as the head of the Hong Kong SAR and the SAR Government is obliged to maintain the credibility of the Government and strive to meet the highest expectations of the public on the conduct of public officers. So with respect to the question of integrity, the Chief Executive has very stringent requirements on himself as well. Although the Chief Executive is not an official under the system of political appointment, as he is the chairman of the Executive Council though not a Member of the Executive Council, he has always abided by the principles and spirit of the Code of Practice for Officers under Political Appointment. This he complies with on his own initiative. He also complies with the arrangements for declaration of interest applicable to Members of the Executive Council.

President, some time ago the Chief Executive accepted hospitality offered by his friends on trips abroad during his vacation. He also leased an apartment in Shenzhen. These incidents have caused widespread public concern. Some people have even questioned his personal integrity as well as the existing system for the regulation and avoidance of conflicts of interest. The Chief Executive has reiterated on many occasions that he has not done anything whatsoever in contravention of the law or internal code of practice. However, media reports and public discussion have served to make the Chief Executive know clearly that there are very high expectations on the part of the public for public officers. After solemn reflection over the matter, the Chief Executive has admitted that there is a certain gap between the rules he has all along observed and the expectations of the public, such that the public is disappointed. He has tendered a formal apology to the public and undertaken that he will exercise extra care and be more sensitive to such matters in future.

President, the Administration does not agree that Members should invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to appoint a select committee or authorize a panel of the Council to conduct another investigation into the acceptance of hospitality extended to the Chief Executive by his friends and his leasing of an apartment in Shenzhen. Over the past few

weeks the Chief Executive has given an account of the incidents through various channels, including this Council, in order to allay public misapprehensions. On 26 February, he attended a radio programme in person. The Chief Executive's Office has related the relevant details to the public through press releases issued and also on a social network site. With respect to the urgent written questions raised by eight Members of this Council, the SAR Government has given written replies respectively in the meeting of this Council on 29 February. In addition, in furtherance of the spirit of being accountable to the public, the Chief Executive attended a special Question and Answer Session of this Council in the afternoon of 1 March and personally answered questions raised by Members. Earlier on, many political parties have written to the Chief Executive to request that more information be provided. The Chief Executive's Office has responded to each of these questions in its written replies made yesterday. The information concerned has also been relayed to Members through the Secretary General of this Council.

President, the Chief Executive has given a detailed account and explanation with respect to the incidents. In order to further allay public misapprehensions, the Chief Executive made it clear when attending the special Question and Answer Session in this Council on 1 March that he would revoke his decision of leasing the apartment in East Pacific Garden, Shenzhen. He would also appoint professionals to talk with the landlord on rescinding the tenancy agreement. He also made it clear that should the enforcement agency want to probe into the matter, he would co-operate fully. Therefore, in our opinion, there is absolutely no need to invoke the P&P Ordinance to appoint a select committee or authorize a panel of this Council to investigate the matter.

President, the incident has given us a chance to examine the existing system of declaration of interest and avoidance of conflicts of interest with respect to the Chief Executive, Members of the Executive Council and other officials on political appointment. Such issues as the compatibility of that system with the present constitutional framework, whether it is in line with the latest political and social developments and whether it can meet public expectations and aspirations should be examined. The Chief Executive has formed a five-member Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interest headed by the former Chief Justice of the Court of Final Appeal, Mr Andrew LI, to review the existing regulatory framework and procedures (including those for the declaration of investments and

interest, as well as acceptance of advantages and hospitality) that prevent conflicts of interest applicable to the Chief Executive, Members of the Executive Council and officials on political appointment, and to make recommendations on improvement measures. The Independent Review Committee will hold public consultations during the review process and a report will be submitted to the Chief Executive within about three months. The SAR Government will certainly fully co-operate in the hope that the relevant system can be improved further.

President, the Chief Executive has given a detailed and open account on his outbound travel arrangements and the leasing of an apartment in Shenzhen for the purpose of allaying public misapprehensions. He has appointed an Independent Review Committee to conduct a review of the existing mechanism and make recommendations on improvements. We do not see any need for this Council to invoke the P&P Ordinance to investigate the incidents.

With these remarks, President, I oppose the motion and the amendment.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I will speak later.

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

**MR ALAN LEONG** (in Cantonese): President, on behalf of the Civic Party, I speak in support of the motion proposed by Mr LEE Wing-tat and the amendment proposed by Ms Cyd HO today.

President, the former President of Germany, Christian WULFF, stepped down in sorrow only last month. As the youngest President in German history, he did have a bright future, but it was revealed by the media that he had repeatedly accepted advantages during his office as the Premier of the State of Lower Saxony, which included the payment of his luxurious hotel bill by a film producer friend in 2007, while the State Government granted a guarantee of over €4 million, which is equivalent to around HK\$40 million, to a film company

under the name of this film producer, arousing suspicions about collusion between business and the Government.

It was also revealed last year that WULFF had accepted from a tycoon in 2008 a low-interest loan of €500,000, which is about HK\$5 million. When asked of his relationship with this tycoon, WULFF categorically denied any relationship with him at first and it was subsequently revealed that this low-interest loan was provided through the tycoon's wife. The Hanover Public Prosecutor's Office subsequently sought the approval of the Bundestag for lifting WULFF's criminal immunity as head of state. This is the first time in the history of Germany that an investigation was launched against an incumbent Federal President. WULFF finally stepped down after his questioning by the parliament.

President, with regard to these details of the hospitality accepted by WULFF, I wonder if Chief Executive Donald TSANG would find them familiar on hearing them. According to my analysis, they are not just familiar but in comparison, Donald TSANG has indeed even surpassed former German President WULFF in terms of the hospitality accepted. In his resignation statement, WULFF said to the effect that public trust is most important to a Federal President and this trust, if damaged, will make it impossible for a President to continue with his role and devote himself to national and international duties.

President, we heard the Secretary for Constitutional and Mainland Affairs say in his speech earlier that an investigation would not be necessary. But in fact, many questions remain unclear and unanswered. What is the merit of setting up a select committee by this Council under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance)? President, on the question of whether Mr LEUNG Chun-ying had exploited his role as a member of the Jury to seek personal gains in the West Kowloon Reclamation Concept Plan Competition, we have just completed the first and second hearings lately. It has taken no more than a fortnight from the setting up of the Select Committee through the passage of a motion in this Council to the holding of the first hearing. I would like to ask: When our meeting with every witness summoned by the Select Committee and every document read by us are all open to the eyes of the public, what other way is better than this? What we need to do now is precisely to enable the public to know, to understand and to judge the many questions that remain unanswered by Donald TSANG. In the view of the Civic Party, it seems

that there is no other way which can respond to the public aspiration for the right to know more expeditiously and more effectively than setting up a select committee under the P&P Ordinance.

President, finding out the truth of this incident is very important to Hong Kong. President, you may have noticed that the Political and Economic Risk Consultancy, Ltd published on Tuesday a survey report on corruption in Asia. Of the 14 places in Asia covered by the survey, Hong Kong's score has significantly dropped over 100%. The survey agency believed that this is attributed to the incidents in which the Chief Executive accepted hospitality from wealthy businessmen. This survey is conducted annually. The latest survey, which was conducted from November last year to March this year, interviewed 1 700-odd middle and senior expatriate executives working in Asia and used a marking scheme that ranges from zero to 10, with zero being the least corrupt and 10 the most corrupt. The survey was conducted by this agency itself on the level of corruption and the impact on the business environment in these places.

As the survey is based on comments made by the executives working in that place and as the interviewees may have different views on or expectations of honesty and probity, I think it may not be too meaningful to draw a comparison between the other places and Hong Kong. But a comparison of the score of Hong Kong this year with its previous score is indeed worthy of our deep thoughts. President, based on a marking scheme with zero being the least corrupt, the performance of Hong Kong has declined from its score of 1.1 last year to this year's 2.6, which is more than double last year's score. Reviewing the past records over the years, since Hong Kong was first covered in the survey in 2008, its annual score has remained at below two until this year when the situation has rapidly worsened. Donald TSANG can be said as the biggest culprit.

The survey agency also pointed out that at the start of the survey last year, the interviewees' comments on Hong Kong were only slightly worse than before but early this year, negative responses obviously increased, which is believed to be related to the spate of scandals involving Donald TSANG and two Chief Executive Election candidates from the pro-establishment camp. For instance, Donald TSANG initially denied a conflict of interest and subsequently admitted it and announced the establishment of an Independent Review Committee to review

the existing mechanism. This is proof that the existing system can hardly monitor the acceptance of hospitality by the Chief Executive effectively.

President, in the Question and Answer Session specially arranged by Donald TSANG in this Council which lasted an hour or so, he could have been able to choose to tell the whole truth and clearly give an account of the details of the incidents, but it appeared that he did not do so. As you may also recall, President, many colleagues in this Council did not have a chance to put a question to him on that day. Even though some Members like me have had the chance to put a question to him to follow up how the internal guideline mentioned by the Chief Executive can exercise monitoring on him as to how he should make arrangements for and handle the acceptance of hospitality, he said that this internal guideline is, in his view, the best regulation. But after our repeated questioning, and as you should recall, President, I asked him whether this guideline was written in black and white, whether it was discussed in the Executive Council, whether it was filed in the Chief Executive's Office (CEO), and so on, he evaded all these questions and talked about other matters on that day. But the cat finally came out of the bag as we learnt from the Secretary that the Independent Review Committee chaired by former Chief Justice of the Court of Final Appeal, Andrew LI, had written to the CEO and from the reply given by the CEO some time ago, this so-called internal guideline is, just as we predicted, actually exists in the mind of Donald TSANG and does not exist objectively. As a result, this has further aroused our suspicions about whether there are still a lot of things that we do not know.

President, after the Question and Answer Session, the media again revealed that Donald TSANG, who claimed that he had not gone to the casino, had stayed in a hotel suite exclusively reserved for high rollers in The Venetian, Macao, on the Christmas Eve of 2007. It is learnt that this type of suite is not open for reservation by ordinary guests, for only gamblers placing bets totalling \$8 million are eligible for staying in it. Donald TSANG said that this suite was arranged for by his second son and his girlfriend, and that he did not make the booking himself. But after checking the records and information, Chief Executive Donald TSANG's second son was just a student back then. How could he possibly have the means to afford the cost of this hotel suite? It does not seem to be reasonable.

President, the Independent Review Committee chaired by former Chief Justice of the Court of Final Appeal, Andrew LI, will review the system governing the acceptance of hospitality, gifts, and so on, by the Chief Executive in future. But with regard to the many things done by Donald TSANG that involve a conflict of interest, a lot of doubts have not yet been dispelled. Let me cite a few examples and see if they can convince the pro-government Members to stop protecting the Government, so that the truth can be revealed.

The first example. With regard to the code of practice applicable only to the Chief Executive that Donald TSANG has talked about, is there any record or document to prove it? Or, is it that during the years when Donald TSANG has been in office, basically he has not been subject to any control and he said that there is this code of practice only because his wrongdoings have been brought to light? He said that the code of practice was drawn up shortly after he had taken up office, but why was it adopted only last year? Is it that he had never accepted any hospitality or gift before last year? All these will need to be examined by this Council.

Second, Donald TSANG has accepted hospitality from wealthy businessmen on a number of occasions. Other than transport fares, who paid the cost of accommodation for him? Who were the people keeping him company on each of such occasions? For instance, who was the friend with whom Donald TSANG had chartered a private flight to Japan? Is there any interest involved between the companies of these people and the policies examined and approved during the office of Donald TSANG? Was any person given special favours as a result of offering hospitality to the Chief Executive, thus causing the public to suffer losses? All these have to be studied by looking into the details of hospitality and the chronology of events or sequence of the processing and approval of these relevant applications by the Executive Council or the Chief Executive.

President, the third example is that according to Donald TSANG, he had paid for these services at market rate. Is there any voucher to prove this? As for the apartment rented by him, is there any tenancy agreement to show that the rent is paid fully at the market rate? After terminating the tenancy agreement, did he make any compensation at the market rate? If a select committee is set up, these issues can be studied.

President, the fourth point is about how he had stayed in the extravagant Palazzo suite in Macao through his son. Secretary Raymond TAM said some time ago that if the Chief Executive accepted hospitality indirectly, he would need to make a declaration only when it was accepted through his wife. But over the years, on how many occasions has the Chief Executive accepted hospitality through his son? This can also be a direction of our investigation.

Fifth, regarding his donation of the proceeds from the auctioning of his wine collection, did he claim tax deduction for such donation? If so, is it true that he could hence save as much as over \$200,000? President, from the information available to us now I have chosen randomly a few questions that we can continue to probe into, in order to return to the people the right to know. I believe this Council, after careful and thorough consideration, will definitely come up with more questions that can be put to Donald TSANG and his friends.

President, between the 5th and 12th of this month after the Question and Answer Session, the Civic Party interviewed 2 364 citizens by telephone, and over 50% of the people said that they did not accept the explanation given by Donald TSANG in the Legislative Council, 50% of the people supported that the Legislative Council should invoke the P&P Ordinance to conduct an investigation into Donald TSANG, and an equal percentage of people supported that consideration should be given to initiating the impeachment mechanism only after the completion of investigation. Therefore, the first and foremost task of the Legislative Council now is to invoke the P&P Ordinance to obtain the relevant documents from the Government and summon Donald TSANG to give further explanation, in order to allay public concerns and more importantly, return to Hong Kong its clean name.

I so submit.

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

**MR LEE CHEUK-YAN** (in Cantonese): President, the Secretary for Constitutional and Mainland Affairs said earlier on that the SAR Government is committed to upholding the core values of Hong Kong people — freedom, the rule of law, democracy, probity, justice. These certainly sound pleasing to the ears, just as everything said by all the candidates for the Chief Executive

Election, which always sounds so pleasing to the ears. But do the people believe it? Likewise, when the SAR Government led by a Chief Executive who is found to have problems makes claims about upholding the core value of probity, is it not very laughable? How are you going to uphold it? You even stated clearly your opposition to the invocation of the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) by the Legislative Council to carry out an investigation. Since you are opposed to an investigation conducted by us, how can you uphold probity? Do you think that Donald TSANG is clean? I actually feel very sad that we have to hoist this banner against depravity and corruption today. When I was a child, there was the "Fight Corruption, Catch GODBER" campaign. I did not take part in it because I was just a child. The Independent Commission Against Corruption (ICAC) was subsequently set up under the direct charge of the Governor and now, it is under the direct charge of the Chief Executive, but is this not ironic? The Chief Executive is in charge of the ICAC but even the Chief Executive himself has a corruption problem. How can probity be upheld?

Let us take a look at the whole incident. Donald TSANG had come before the Legislative Council, and the Secretary for Constitutional and Mainland Affairs also repeated earlier what the Chief Executive had said on that day. He had only admitted that there was a gap, which means that there is nothing wrong with what he did, just that the people have higher expectations as times have changed. It is because the people now have higher expectations and so, there is nothing wrong with his conduct. This is all because there is a gap. As for this gap, he sounded as if the fault lies with the people because the people should not have such high expectations. This is primarily because the people's expectations are too high, not that there is anything wrong with the conduct of the Chief Executive. This is how he has put it. Is that really the case? He then apologized. I have no idea for what he had apologized. I think he apologized only for causing disappointment in the community, rather than apologizing for the problem with his conduct. Does it not mean that he insists on not to repent?

After the revelation of so many problems, he has still refused to admit his mistakes and even said that he had worked in the public service for 45 years. This is exactly what causes our hearts to ache. After 45 years of public service, he has now degenerated — I can only use this word to describe him — into such a sorry state of currying small favours and accepting hospitality. He is already leading a comfortable, well-off life. Has he been very poor in taking up the office of the Chief Executive? He is absolutely not poor. He lives in

Government House, which is bigger than any residence of the rich people in Hong Kong. He already has such a good place to live in and yet, his eyes still fall on these small favours? He even said that there is nothing wrong with his conduct, just that there is a gap and that it is all because the people's expectations are too high. Is that true? Why does he still seek to defend an indefensible case? He simply has no sense of repentance. What is this indefensible case that he is trying to defend? Let us review what happened. What he is trying to defend is his own conduct. This is exactly what we need to probe into, as so many things have yet been clarified. He has to defend himself, as he sees nothing wrong with travelling to Thailand on a private jet and paying the equivalent of the economy class fare, as he already paid the equivalent fare of flying economy.

Moreover, there is one point which is even more awesome — I found it laughable on hearing this from him during the Question and Answer Session in the Legislative Council — He said that he had travelled on a private jet to Thailand and he would have done something wrong if the hospitality accepted by him was hotel accommodation because a hotel is a business organization and he should meet the cost out of his own pocket. We asked him where he stayed then. He said that he stayed on a private yacht owned by other people and that there was nothing wrong with it. President, ordinary people like us may not understand too well the life of the rich but I do watch *Travel and Living* and I have seen what the wealthy people around the world do for fun, though we certainly do not have the means to take part in it. One of the ways to seek pleasure is to berth their yachts at one of the most beautiful marinas in the Bahamas. Rich people from all over the world berth their yachts there, and these yachts all cost a fortune. I do not know how to describe it but it costs tens of thousand Euros for one person to spend just one week on a yacht, and this is all that I know. I have no idea where in Thailand or where in Phuket a yacht marina can be found. But he did stay on a yacht, and do you think that staying on a yacht is cheap? He boarded a yacht owned by other people, stayed there for a couple of days and accepted the hospitality offered to him. He does not see anything wrong with it because he did not stay in a hotel and that would be alright. What logic is this? He said that there is nothing wrong with it.

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

Then, he considered that he had not done anything wrong in travelling to Japan on a private jet because he had chipped in money to share the cost. But with whom did he go to Japan? What hospitality did he accept in Japan? Nobody knows. But I have to say one thing for him, as he said that the cost of his hotel accommodation on this trip was paid by himself. But no one knows what exactly he did in Japan. Besides, there is nothing wrong with travelling on a private yacht and paying the equivalent of the economy class fare; there is nothing wrong with living on other people's private yacht in Macao; and there is nothing wrong with accepting these kinds of hospitality. Moreover, a most luxurious suite was booked with a casino under the name of his son. I have no idea why he had to make the booking under his son's name. Why would the casino accept his son's reservation for this luxurious suite? We all understand that it was impossible for this luxurious suite to be reserved for his son, because it was actually reserved for the Chief Executive. There is nothing wrong with accepting all these favours. This is why the Chief Executive does not see anything wrong with his conduct. According to his definition, there is nothing wrong with this Chief Executive, but from the angle of the public, there is a very big problem, a very big problem of depravity and corruption.

Deputy President, we in the Labour Party consider that an investigation should first be conducted to find out more details of the hospitality that he accepted before the impeachment mechanism should be initiated, but we may have to look at the voting result today. Actually, the Chief Executive can already be impeached now, as we already consider that this is actually tantamount to dereliction of duty on his part. While the impeachment procedure can be initiated now, we only think that before initiating such procedure, it is better to obtain more solid evidence in order for the impeachment to produce stronger effects. I hope that this motion on the invocation of the P&P Ordinance can be passed today, because it is only through the P&P Ordinance can we investigate what exactly has happened.

Indeed, there are several things that warrant a thorough investigation. It is necessary to investigate all the problems that the Chief Executive does not perceive as problems, as pointed out by me earlier on. What we must first find out is: Who were the people in his company during those trips? What kinds of hospitality did these people offer to him? All these are what the public should have the right to know. During the Question and Answer Session in the Legislative Council on that day, I asked the Chief Executive expressly: Who were

the other people keeping him company on that occasion? All the people who have offered hospitality to him must be made known to the public. He said that concerning invitations to a meal extended to him by other people, could it be that he has to make public the names of all the people who have invited him to a meal in places all around the world during the past few years? Fine. Let us not venture too far then and just talk about these several occasions recently. But he still refused to tell us anything, saying that is privacy. If this can be a reason, everything will be easy. Why should Members of the Executive Council make declarations of interest? Everyone can say, "That is privacy.". As Ms Cyd HO said earlier, Mr Andrew CHENG had even declared that a certain person was his secondary schoolmate. Mr Andrew CHENG could have said that this is his privacy, but why did he make a declaration? Privacy is very important, but privacy must not be abused. Donald TSANG has abused privacy in a bid to cover up from whom he had accepted hospitality, which is a major issue of public interest. Why do I say that this is a major issue of public interest? Because if this motion on the invocation of the P&P Ordinance is passed in the Legislative Council, and when all the names of people and companies are obtained, an investigation has to be carried out on the Executive Council — Deputy President, it is no longer confined to the Executive Council now — but also meetings of the top echelons of the Government, the internal meetings of the Government, and many other meetings as well, in order to find out whether any benefit has been transferred to these people. All these will warrant investigation, especially as this is related to public interest, because if the Chief Executive has accepted hospitality from them and subsequently given them a green light in public affairs, public interest would really vanish without a trace then. This is not just a question of hospitality, but more of a question of transfer of benefit, in which case public interest will absolutely be sacrificed. Was there such a case? Stephen LAM will definitely say no later. How do I know whether or not there was such a case? Stephen LAM would tell us to trust him and it would be really laughable if we do trust him. If a person wants other people to believe him, why should he not make public everything? If he can make public everything and resign himself to an investigation, other people will believe him, and he should let people see and let people know what exactly has happened. Therefore, this question of conflict of interest certainly warrants investigation.

An investigation is also required to probe into the internal guideline or this set of guideline which is not expressly written. This is so laughable indeed. Raymond TAM said earlier that the Chief Executive voluntarily observes the

Code for officials appointed under the accountability system and he voluntarily observes the system of declaration of the Executive Council. He observes these regulations voluntarily, but how do we know whether or not he has observed them? It is also said that there is an internal code of practice but it transpires that it is not written in black and white. Obviously, this is nothing more than a remedial step. It is only when his acts were exposed that he took this remedial step, saying that there is a code of practice. But it is found that this code of practice exists only in his mind. Who will believe it? This is obviously a remedial step. Is that true? We certainly have to carry out an investigation in order to find out what this internal guideline is all about.

The worst effect of the entire incident is that it deals a heavy blow to Hong Kong's core value of honesty and probity, and it deals a heavy blow to the morale of civil servants. Civil servants who accept hospitality will be dismissed immediately. They will be dismissed even if the hospitality they accepted is no match for that accepted by Donald TSANG. Can you justify this to those civil servants who had been dismissed? This incident has dealt a severe blow to society. The level of probity of Hong Kong has been dragged down by the Chief Executive, and people now think that even the one at the top is corrupt. What should the community of Hong Kong do? Now that we do not have much left. We have been proud of the level of honesty and probity in Hong Kong, but our Chief Executive has outrageously learnt from the Mainland officials and much to our regret, he has learnt their depravity and corruption. The worst is that the Mainland officials may say, "Oh, this is just peanuts.". The other day when Donald TSANG attended the meeting of the National People's Congress, he was immediately greeted and embraced by Mainland officials. I was thinking about why the Mainland officials would embrace him. Buddy, the Mainland officials know that their cases are more serious than Donald TSANG's and embracing him would mean throwing weight behind him. It is because what the Mainland officials have done is more serious than what he did. They must be thinking to themselves, "This is wonderful, as even Hong Kong is not spared!", and they must be very happy. Is that the case? It is so miserable indeed that Hong Kong has come to this sorry state now.

For these reasons, we definitely have to carry out an investigation, and it is impossible not to carry out an investigation. We have the Code on Access to Information in Hong Kong, but there is no legislation which provides that the public have the statutory power to obtain from the Government the information

they want. This is only the most common information that should be published as a general rule. Why is it that even such information ..... If, in accordance with the Code on Access to Information, a person seeks information about the people who were travelling with Donald TSANG on the yacht or on the jet, will he give an answer? He certainly will not give any answer. Hong Kong does not have an archives law which can otherwise require the Executive Council to put on record what it has done for future inspection. But we are not asking that an investigation be carried out in the future. We want it to be carried out now. In the absence of an archives law, the information may be destroyed in the future without our knowing it. So, insofar as the entire incident is concerned, and as things have developed to the present state, if the pro-establishment Members maintain that an investigation is not necessary and if they continue to shield mistakes, can they do justice to Hong Kong? On that previous occasion we passed the motion on initiating an investigation into LEUNG Chun-ying's involvement in the conflict of interests in relation to the West Kowloon Cultural District (WKCD), but there is not any difference between the question of LEUNG Chun-ying's conflict of interests in relation to the WKCD and this incident in terms of nature and substance. If an investigation can be carried out on LEUNG Chun-ying, we should also carry out an investigation on Donald TSANG. There is no reason for it to be like this (*The buzzer sounded*) .....

**DEPUTY PRESIDENT** (in Cantonese): Time is up.

**MR LEE CHEUK-YAN** (in Cantonese): Therefore, I hope that this motion can be passed today.

**DEPUTY PRESIDENT** (in Cantonese): Mr LEE, sit down please.

**MR LEUNG KWOK-HUNG** (in Cantonese): Deputy President, our discussion today on whether or not the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) should be invoked to conduct an investigation into the Chief Executive is actually just a demon-spotting mirror. The admissions made by Donald TSANG personally already constitute a sufficient ground for him to step down, but he shamelessly begged to be forgiven and finally, Members

of the Legislative Council respectfully rose while he left this Chamber and the matter is considered settled.

We all talk about the public opinion now. According to the public opinion in Hong Kong, do Members think that the people are prepared to accept the apology of the Chief Executive? Some people who are more kind-hearted or naïve said that as the Chief Executive had unprecedentedly admitted his mistakes with a crying face, what else do we want? I would like to tell these people that the Legislative Council is certainly not a place for discussing personal rivalries. Members of the Legislative Council are tasked to handle public duties. On this incident involving the Chief Executive, there are two ways for us to exercise powers on behalf of Hong Kong people to make him accountable to the public. One is the P&P Ordinance, and the other is to initiate the impeachment procedure against him. While these are two different options, they serve the same purpose.

Is it possible that no record is kept on what the Chief Executive has done? I think there must be these records, because he is a major political figure and what is more, a major political figure appointed by the Chinese Communist Government. Firstly, the Communist Party of China certainly keeps him under surveillance; secondly, as he is a major political figure, certainly a security detail must cover him and so, these records will not be destroyed. In other words, even if we may not know with whom he has met, at least the places that he has visited are detectable and traceable. The question lies only in whether or not he will provide the records.

He said apologetically that given his unique status, there is no way for him to ask for his superior's instructions as to what he can or cannot do, but he should understand that apart from being the Chief Executive, he is also a self-proclaimed statesman. What is a statesman? It is his integrity, especially his political integrity. In other words, when he considers it unnecessary to give any further explanation, this is actually tantamount to defiance of the public opinion in Hong Kong, and this is also the clearest response to Members' request for following up this incident.

I would like to ask the Chief Secretary what he will do if his subordinate has done what the Chief Executive did. Will he request that no investigation be conducted? Will he ask the Civil Service Bureau not to dismiss this subordinate? I trust that he will not. Then what is he trying to defend here

today? The standards that he has set for his subordinates, or the standards that he, being a principal accountable official who takes orders from just one person but commands tens of thousands of people, has imposed on his colleagues and over 100 000 civil servants outrageously do not apply to the Chief Executive. If it is said that this is because of the system, well, I may not pursue any further, but why does he have to come here to stop people who can exercise institutional monitoring?

Regarding this simple question, I understand that he can do nothing about it because he, being a subordinate of the Chief Executive, obviously cannot act against the Chief Executive. But if he still has political ethics and conscience, he should give the power to the Legislative Council. Be it the invocation of the P&P Ordinance to conduct an investigation or the ultimate impeachment of the Chief Executive after investigation by the Chief Justice, he should still express his support to show that he is a person of integrity. This is what his office requires of him, disregarding how well he and the Chief Executive have known each other and how grateful he is to the Chief Executive for recognizing his capabilities. This is what should be done under the system.

I am always accused by other people for breaking the system, but it is most laughable that tomorrow there may be people proposing here that since a Member has been sentenced to imprisonment for two months, it will be unfair not to initiate the procedure for dismissing him. I would like to ask these Members to see things clearly and not to make a comparison only horizontally by purely looking at the rule that the dismissal procedure will be initiated against any Member sentenced to imprisonment. Rather, they should also pay attention to the vertical comparison in respect of this incident involving the Chief Executive. What I mean is that for all corrupt and depraved officials or presidents through the ages who were found to have committed such acts, is it not the case that they were all subject to impeachment or investigation? Members can cite as many examples as they like to illustrate this point. If these acts of the Chief Executive are privacy, CLINTON's acts are also privacy, for they were committed behind closed doors without anybody else knowing them. What does other people's private life have to do with us?

Is the Chief Executive's explanation in any way cleverer than CLINTON's arguments to sidetrack the issue? CLINTON argued that he did not have sexual intercourse with the trainee because the two sex organs were not connected, in an

attempt to deceive people. The Chief Executive has done just the same. He claimed that he had not done anything wrong, just that the people have a higher value or standard of right and wrong than his, and he apologized for this. But the problem is whether or not he is involved in any conflict of interest and whether or not such conflict of interest will lead to deferred rewards. For instance, with regard to that residential property in Shenzhen, if this incident was not exposed, would the owner eventually charge him rental? Heaven knows, right? Writing out a receipt is a piece of cake.

Therefore, it is pointless to ask the Chief Executive to attend meetings of the Legislative Council because Mr WONG Cho-bau needs not come before us. In answering Members' questions here the other day, the Chief Executive was merely talking to himself. But after the mechanism of investigation is initiated under the P&P Ordinance, we can summon Mr WONG Cho-bau to this Council and ask him whether he had done the same thing whenever he sold a property, whether he would always remove the entire clubhouse to solicit business from a major client, whether he had always done business in such a disproportionate way, and for how many times he has done so. These are the key issues, and we need to carry out an investigation not only into the Chief Executive, but also those people who have offered hospitality to the Chief Executive. They will be summoned here to give clear explanations.

The Chief Executive takes order from just one person but commands tens of thousands of people. The other day when he attended the Question and Answer Session of the Legislative Council, no sooner had I asked a follow-up question than I was expelled by President Jasper TSANG who told me to observe the order because only one question was allowed, to be followed by an answer, and no further question could then be asked. What can we find out from asking questions anyway? This is all but a show. Chief Secretary Stephen LAM, you do understand it, don't you? I have never seen in court that when a suspect takes the witness stand to answer questions, only one question can be put to the suspect for an answer. How possibly can the truth be uncovered in such a way? You used to be a lawyer, and you may still be one now. Will you do this in handling a lawsuit? I believe you will not. So, why should such unreasonable thing be allowed to happen in this Council? Why should we have to tie our own hands?

A certain standard applies when it comes to impeachment against me. The Court has meted out a sentence on me and this is all clear. But how do

these people treat the Chief Executive who is unanimously described by the people as engaging in corruption and favouritism? Mind you, this is a Chief Executive who is judged by the court of society to be allegedly involved in corruption and favouritism. We, being representatives of society and public opinions, are trying to give Donald TSANG an opportunity to clear himself of these allegations, so why is he not happy with this? Can you explain to us what instructions the Chief Executive has given to you? Is there anything that he cannot tell us? He prays every day. Does he believe in the eleventh commandment outside the Ten Commandments and that is, "Do not let yourself be caught red-handed"? Does he now believe in a newest faith which has this eleventh commandment: "Evil deeds are permitted, but do not let yourself be caught red-handed"?

Under the control of small-circle election, this Council is already full of sophistry. When a bigwig commits a mistake, the higher his rank is, the greater protection is given to him. A civil servant who borrows \$500 or accepts a \$501-worth gift will go to jail in disgrace because under the rule of law, he only has himself to blame in committing such a mistake. But in this Council we have nevertheless treated the Chief Executive with tender loving care. In fact, whether or not he will be taken to court may not entirely have nothing to do with us. So long as we can complete on behalf of the Judiciary the duty of investigation that the Judiciary cannot perform to uncover the truth, there will be a chance for more stringent judicial procedures to commence on the premise of suspected criminality on his part. Is this not the case now? The reason is that he enjoys immunity whereas I do not.

Tomorrow, a so-and-so political party will suggest that since Mr LEUNG Kwok-hung has done this and that, discussions must therefore be held. Never mind, just go ahead with the discussions, because I think this is a correct thing to do. But do you people have principles and ethics? Hong Kong people are most concerned about whether there is corruption in the regime and whether the head of the regime has taken the lead to engage in corruption, seeking personal gains and fostering conflicts of interest. This is what all the people of Hong Kong are concerned about. Could it be wiped away just like this? Whether or not I will continue to be a Member of the Legislative Council is certainly important to me, and it is also very important to my constituents. But the Chief Executive is leading more than 100 000 civil servants and what he does affects the living of more than 6 million people. Can such acts be condoned? If I

were instantly dismissed as a Member of this Council, could he remain in office? So, what future will there be for a Council controlled by a group of unethical people devoid of integrity, sense of shame and logic?

Let us try to look at LEUNG Chun-ying. With regard to a rumoured dinner involving "black gold politics", everyone tells a different version of the story, and even if it is about such a minor issue of having a dinner, different people have said different things concerning the seating, who made the invitation, and whether or not it was by Dutch. From this, it is certain that an investigation must be conducted on the Chief Executive. A person who has so carefully schemed to reveal other people's scandals and who aspires to the office of the Chief Executive is thrown into chaos when scandals about him are exposed. Is this not very simple to understand? The Chief Executive has done so many things that he himself has admitted. Once an investigation is launched, who knows whether there will be another "Shanghai Boy", "Hunanese", "Pekingese" showing up?

After LEUNG Chun-ying's "black gold" incident, all the people of Hong Kong have come to realize that a person who claims himself to be most honest and stands the highest chance of becoming the Chief Executive as shown in opinion polls will become self-contradictory in the face of such a minor issue. Worse still, what is the most horrible thing? That Donald TSANG is in trouble now shows that he has been kept under watch, and the people who are watching him can use the materials that they have got to attack a Chief Executive whose appointment was made with their involvement, for the purpose of political struggle or rivalries for the office of the Chief Executive. People like us who have neither powers nor riches can see only small fragments of the picture, but we are barred even if we wish to find out clearly what has happened, and this is the most horrible thing. They made use of the blood and sweat of the Chinese people, the blood and sweat of Hong Kong people to obtain intelligence and keep the Chief Executive under watch. They do so with the purpose of punishing the disobedient Chief Executive, just like using a dog's bone to batter the very same dog.

This is a very serious problem, and if we further probe into it, we will find out why our Chief Executive would have his true face revealed after being followed by other people, and this is most important. Who has been making use of these materials is the key question. However, I am sure that this can never be

brought to light. To put it plainly, it is just because the surveillance on Donald TSANG and even the political sector of Hong Kong in the entire national security system, as well as when the materials hence obtained will be used, how they will be used or how they can be used to murder the integrity of other people, to attack political rivals or expose the scandals of other people are a most sinister secret that nobody dares to disclose.

Deputy President, I am just a humble Member of the Legislative Council and I have been given so much attention. Does anyone dare to reveal the truth of this incident affecting all the people of Hong Kong? Regarding the question of who has the ability to keep the Chief Executive under watch and then release these materials in order for C Y LEUNG to rise to power, (*The buzzer sounded*) ..... is there anyone who dares to carry out an investigation?

**DEPUTY PRESIDENT** (in Cantonese): Mr LEUNG, time is up. Does any other Member wish to speak?

**MR FREDERICK FUNG** (in Cantonese): Deputy President, the motion under discussion today seeks to authorize Members under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) (Cap. 382) to inquire into the incidents involving the Chief Executive between October 2009 and February 2012 which have been exposed, including his travels to Macao, Japan and Phuket of Thailand with friends involving private passages as well as the accommodation arrangements in such places. Certainly, these incidents also include his renting a penthouse at East Pacific Garden in Futian District, Shenzhen, and related issues.

If ordinary members of the public were involved in these incidents, nobody would pay attention to them or care about them. But insofar as civil servants are concerned, we have in place a system, and not only would these incidents arouse concern and attention, inquiries would also be conducted under the Civil Service Code to find out if there is any breach of the rules. Certainly, under this Code for civil servants, generally speaking, the above cases should not be granted approval — of course, the Secretary can clarify if they will approve these cases, please let me know — as there is concern that these acts will affect the impartiality of civil servants and exert a certain degree of influence on civil

servants, especially if some relationships are established with the commercial sector, bias would be resulted in the enforcement of law.

Certainly, the question now is that insofar as the Chief Executive and even senior officials under the system of accountability for principal officials are concerned, in what way these activities or hospitalities in the form of materialistic enjoyment should be monitored. In any case, these incidents had all occurred in the past and theoretically, after these incidents had occurred, there are people who know about them, or else they would not have been revealed now. But why were these incidents not revealed or made known after they had occurred and are made public only now? Is it purely because Chief Executive Donald TSANG will step down after serving his remaining term of six months and hence, it is necessary to make him give a clear explanation before his stepping down, or is it because of the Chief Executive Election in that the exposure of these incidents is a means adopted by one camp to attack another? Of course, not everyone knows the truth but obviously, the situation has given people the feeling that these are related.

However, disregarding to what extent or how closely these are related, these incidents have given us the feeling that when competing for a position of power, the rivalries between two camps can be so fierce and in such great depth, and they can be so unscrupulous and so indifferent to the life and death of the rivals. Of course, if what have been exposed are true facts, that should not be a problem. Having said that, turning back to the point that I just raised, why are they made public only today? These incidents were already known two years ago. Why were they not revealed two years ago? So, this involves many calculations behind the scene.

Insofar as the entire incident is concerned, I think we should present the facts and reason things out. The fact is that the Chief Executive did accept hospitality offered to him by his friends. The fact is that the Chief Executive has himself pointed out that the Chief Executive was not subject to any of these restrictions at first and that he accepted these hospitalities because to a certain extent, he has very fairly drawn up some rules to govern himself, meaning that while there were no rules governing him before, these rules have now been put in place. But concerning these rules which are drawn up by himself, I think they are problematic in several aspects.

First, these rules have not been published. Had these incidents not been revealed, we would not have learnt about them. Second, no consultation has been conducted, and when these rules, which did not exist before, were drawn up, the public had never been told about these rules; nor had the public been consulted on whether or not they would accept that the Chief Executive be governed by these rules in the future. It is because he may be a bit different from other civil servants or senior officials, for he is the boss, and he does not have a superior above him to keep watch on him. Third, there is no record on the drawing up of these rules. Are these rules made only verbally or are they clearly recorded in black and white for compliance by the Chief Executive? More importantly, we do not know when these rules started to take effect. Even if Members said that they should start to take effect within this year, why do they start taking effect only this year, and why did they not take effect seven years ago or six years ago but will start to take effect in the coming year or two? In other words, this is also arbitrary, as the rules will take effect at any time he thinks fit. These are the problems that I have found with that mechanism for formulating the rules.

Certainly, a key point behind this mechanism is that the Chief Executive has said that he is prepared to pay for the cost, or pay at the market value. For the so-called market value, it means that when he travels from place A to place B, and assuming that he travels by plane, he will have to pay a cost equivalent to the air ticket fare in the market, depending on whether he is flying economy or business or other class of flight.

This seems to sound very reasonable but as we can see, in the many examples that I have just cited, no comparable value can be found in the market. In other words, in the case of travelling on a private jet, with regard to the size of the private jet, the extent of luxury and the distance of the journey, or the size of a private yacht, the extent of luxury and the number of days spent on the yacht, is there a market value for reference? If there is, I would think that it is definitely not the value of a flight ticket in the market, and it is definitely not the value for an admission ticket to a cruise, a vessel or a yacht in the market. Other than the flight ticket and the admission ticket, the value of other kinds of hospitality must definitely be included.

If the financial cost that he should bear is considered to be met by merely paying the cost of a flight ticket or the economy class fare, judging from these

several facts, I would say that the difference is obviously an ocean apart. This has excluded the value of hospitality, even if only the cost and no profit margin is factored into it, and this has excluded the cost of the flight, even if the fare of economy class or business class is paid, and there is still a huge gap in terms of money or financially. When such a gap is accepted, is this gap a reasonable gap? Does it need to be declared? Does it need to be made public to a certain extent? Certainly, in asking these questions, my attitude and value have pointed to such a need, the need for these conditions to be covered in the rules. And it is not the case that these conditions have not arisen before, and they have arisen not just once but many times before. Why would there be these problems? Apart from being honest and clean, he should be seen by people to be honest and clean, and this is the purpose that this system is intended to serve.

One of the questions is whether or not these hospitalities will create any effect. The Chief Executive has answered questions in the Legislative Council. I asked him: These people are his friends, so what effects will be created after his friends have offered hospitality to him? On my part, I will also ask myself: I have friends and relatives, too, and if they have treated me to a meal and disregarding how extravagant the meal is, they are my buddies, and what is the relationship between my buddies and my work in the Legislative Council? Everyone knows that Members of the Legislative Council mainly have the power of consultation and deliberation and we have no substantive policymaking power. In comparison, the Chief Executive is the person in whom all government policies are ultimately vested, and there is this difference in power. After my friends have treated me to a meal, I can do nothing to repay them, or at the most, I can only help him put a question to the Government, and that is the best that I can do. Of course, all Members of the Legislative Council do know their restrictions and the need to make a declaration. What I have just said is not a question of the system, but a question of relationship, power and status. The possession of such power and status can make a relationship with friends become ..... If this friend is personally engaged or operates a company engaging in the commercial sector or business or even dealings involving anything relating to the work of the Government in Hong Kong, this status will then make a difference.

The second question is: Were these hospitalities offered to him during office hours or his private time? In the former case, it is all the more necessary for declarations to be made; in the latter case, concerning the several incidents that occurred when he was away from Hong Kong as I stated earlier, did he, by

way of an official letter or official document of the Hong Kong Government, inform other people that he was on leave during these periods of time and of the person who would act up as the Chief Executive during his absence, to show that he was truly enjoying these entertainments in his private time?

Third, there is the situation when a reward sometimes does not involve just money. A reward can sometimes involve relationship and affection. As we all know, human beings influence each other when they get along with each other, and the more and longer human beings get along with each other, their affection for each other will ..... Of course, they will fight with each other, but it is possible for them to develop affection for each other over time. Certainly, the affection that I am talking about can be affection between men and women; it can be affection between friends, and it can be affection between brotherly friends, too. Can this affection or bond grow after they have got along with each other under various circumstances, especially in circumstances involving hospitality of a very private nature, or after they have got along with each other for some time on a yacht? The bond that I am talking about is not the kind between the two genders, but the bond between human beings. When this bond grows and when this affectionate relationship becomes better and better, in the event of a problem in future, naturally it would be easier to talk to each other, and anything could be dealt with more easily; and when something happened, they would, when talking about certain things, unconsciously, unintentionally and unknowingly distinguish what should be talked about, what can be talked about and what cannot be talked about.

Deputy President, these incidents have precisely reflected that the various scenarios that I have just stated are possible. Therefore, as he is the Chief Executive, unless he does not hold this office, and so long as he holds this office, it is somewhat like the appointment of the Chief Justice that we debated years ago. Can the Chief Justice make comments openly? Can the Chief Justice establish a relationship externally? How should these relationships be defined? When you hold this office, you must know that the Chief Justice is required to at least keep other people at arm's length. The case of the Chief Executive is similar because not only must he be honest and clean in his mind, law-abiding in his mind, impartial in his mind and setting an example for his ruling team in his mind, he must also show to the neutral Civil Service and even the people of Hong Kong that the Chief Executive is honest and clean, law-abiding and impartial.

However, too many of those cases that I cited just now have happened. The Chief Executive has accepted only the hospitality of major businessmen and they hang around with each other. This has precisely aroused suspicions and concerns, and the public do not believe the Chief Executive is honest and clean, law-abiding and impartial. He, being the Chief Executive, must cherish his every gathering with other people. Of course, I will ask: Why has he established private relationships with those people? When did these relationships start? How were they built up? How many people living in poverty have had private relationships with him? The Chief Executive has always said that he was born in a less well-off family and if so, he should have a lot of friends from various strata of society, including the medium-poor people, people in abject poverty or middle-class people. How many friends from these social strata does he have, and will he go on a trip with them, hang around with them and spend the holiday with them? Why does he have private relationships with some people but not others? If he does have relationships with other people, I hope that he can tell us. So, what matters is not solely the question of money as I have just said. What matters is the building up of affection or bonds.

Deputy President, I think Hong Kong people need to sort out all these questions and the truth, in order to do justice to the Chief Executive and tell Hong Kong people that the qualities of probity, compliance with the law and impartiality exist not only in the mind of the Chief Executive. He must show to the people that he possesses these qualities. I think we can see the clear picture only when the P&P Ordinance is invoked to allow the Legislative Council to examine the relevant documents and information as well as the evidence given by some people. I, therefore, support this motion.

**MR CHIM PUI-CHUNG** (in Cantonese): Deputy President, we all know very well that the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) confers on the Legislative Council the highest authority to enable the uncovering of the truth in all aspects.

In the debate held recently on conducting an investigation into the West Kowloon Cultural District (WKCD) incident with the powers conferred by the P&P Ordinance, I made it clear in my speech that as the incident happened more than a decade ago, what I personally wish is not to look at the "old scores" but to give Mr LEUNG Chun-ying an opportunity, because he has repeatedly stressed

that he absolutely had not done anything wrong. So, we must give him an opportunity to clear his name.

I will vote against the motion under discussion today. I am going to vote against it in order to show that Members make their own decisions and that no external pressure or view can make us change our personal views. Of course, we must take certain responsibilities for what we have done, and in this Council, there is no room for sophistry in the comments made by us.

With regard to this incident, we should analyse it this way: Concerning the stipulations on the acceptance of hospitality by the Chief Executive, were they clearly written down in express terms before? If they have been set out clearly and if the acts of the Chief Executive are proven to have really violated these rules and the code, he must be subject to sanctions. This is the first key point.

The second point is that if they are not written down or they are not written down clearly, who should be held responsible? Or, perhaps we can look at the past practices. It has been almost 15 years since the reunification of Hong Kong but before the reunification 15 years ago, Hong Kong had a history of over 150 years, and there are records. So, what about those Governors in the past? As we have learnt from rumours and reports, a Governor once accepted a donation of £1 million to his political party, leading to other problems subsequently.

The third point is: What should we do in future? The future is not the end of the world, and it is not the case that Hong Kong does not need to be governed. So, it is most imperative that we must understand the relevant procedures and we must understand the facts pertaining to the several criticisms against Chief Executive Donald TSANG. On the last occasion I already explained my personal view that it is most imperative and best for the Chief Executive to personally give a direct explanation. My view is that each of these facts is a fact which is impossible to conceal.

As a matter of fact, concerning the question of whether those people have been awarded any medal or major business contract or commercial benefit by offering hospitality to the Chief Executive, we can make a list of them item by item. Some people who were awarded medals have indeed done a lot for Hong Kong and deserve the awards. Of course, the Chief Executive has the power to make suggestions or commendations, but the final Honours List will be examined

and reviewed by the Honours Committee. So, we should treat the people concerned in a fairer manner.

In this society there are many brilliant people, and there are also many people who know the trend of the times. Everyone would wish to have the opportunity to befriend the Chief Executive, to dine with the Chief Executive or to have fun with him. Of course, some people will say that they do not want it, so I had better not say that everyone wishes for it, but most people wish for it. Such being the case, we must do justice to those people. Could it be that each and every person who went to Macao with the Chief Executive, or who was on the yacht and even on the plane with him has been awarded a medal as a result?

Let me tell Members that I have known a friend whose Chinese name has the Chinese character "海" (Hoi). He has not done anything for Hong Kong and yet, he was awarded the Grand Bauhinia Medal — I have almost spelt out who he is — For what reason was this person awarded a medal? So, when hurling criticisms at the Chief Executive, we must understand that this is all due to the loopholes and inadequacies of our system.

The most important point is whether there is any rule stipulating that the hospitality, gift or a meal accepted by the Chief Executive or the Secretaries of Department and Directors of Bureau cannot exceed a certain amount. I trust there is such stipulation governing civil servants, but not the Chief Executive. Therefore, it is necessary to lay down stipulations more comprehensively in future.

I have not moved a motion for debate in the Legislative Council for many years. I am going to submit an application for the next debate — though I do not know if I will be successful in drawing lots — in order to put forward some views to the fourth Chief Executive. If I succeed, we can take the opportunity to put forward our views on this issue then.

Deputy President, I take exception to certain practices adopted by the media recently in Hong Kong, for they easily remind people of the periods during the movements against the "three evils", the "five evils" and the landlords in the Mainland. What happened back then in the rural villages was that any landlord could be dragged out randomly for public criticism and denunciation and treated in grossly insulting ways. Looking back on history, this is a much-condemned

and darkest reign in China, namely, the 1967 Cultural Revolution. As we can see, what is happening in Hong Kong is indeed frightening. Some colleagues have said today that the international rating or status of Hong Kong has dropped, and this is directly or indirectly attributed to what has been happening lately.

We all understand the core values of Hong Kong, and let me stress once again that a system of legal procedure is involved. Let me cite an example. If any person or even the media has obtained some information, the first thing to do is certainly to dig up evidence. Next, the normal course is to lodge a report based on the information obtained. When it comes to lodging a report, we all know that there are two departments — perhaps there are other departments — the first is the Independent Commission Against Corruption, and the second is the Commercial Crime Bureau. If an offence in law is involved, the relevant information has to be handed to these departments. Upon receipt of the information, these two departments will proceed to a detailed investigation and examination, and for cases with *prima facie* evidence, I believe they will pass them to the Department of Justice. Once the Department has received the information, various tiers of internal assessments will be carried out and if they consider that there is enough evidence, preparation will be made for prosecution. Finally, with the consent of the Department, hearings will be conducted in different levels of courts. For serious cases to be heard in the High Court, a Jury will have to be empanelled. When the accused is found guilty by the Jury after the hearings, a verdict of guilty will be returned and the Judge will mete out a sentence. Certainly, the relevant person can lodge an appeal all the way up to the Court of Final Appeal. This is the legal procedure entrenched in the core values of Hong Kong.

But recently, some newspapers have carried out six or seven of these steps all by themselves in that they dug up evidence by themselves and received reports by themselves; they turned themselves into the court, conducted hearings by themselves and handcuffed the relevant persons in the media. Such insulting acts ..... We have time and again discussed the freedom of speech of the media in the Legislative Council and we have had discussions here on how the freedom of the press can be upheld. But we should look at one thing in all calmness. Is the media matchless? The media is, after all, doing a business. Some of them are very successful, but some have to wind up in the end. Of course, as the media can exert influence, everyone is afraid of it. My view is that we must look at things fairly and reasonably. What happened lately has rekindled our

fear for the movements against the "three evils" and the "five evils" and the Cultural Revolution in the Mainland. We may not have personally faced them, but we can in one way or another understand them through the media and other channels. Therefore, the public must realize that Hong Kong has really become a place which is blind to reason, with conditions oscillating between good and bad. We must have our own thinking and make our own assessment. We must review our inadequacies and we must do better, but we must not refrain from complying with the relevant stipulations.

In Hong Kong, there are two or three media corporations which are larger in scale, and we have learnt from the press reports that one of them has made donations to political parties. Does this media corporation have a purpose or objective? We all know it only too well. Could it be that there is free lunch in this world? When you accept a favour from other people, you will know what you should do. This is all about knowing what you should do, but is it in compliance with the stipulations in the relevant legislation? Besides, I mentioned earlier that a Governor of Hong Kong had solicited a donation of £1 million, and was any private grudge involved in it? We know this only too well.

I have reminded Members time and again that public instruments cannot be used for private ends. Although our speeches are under protection, we Members of the Legislative Council must have integrity. As I always say, Members can talk about what they have done rightly but we must not talk about the faults of other people. No matter how smart you think you are, and even if you are as good as an actor in acting, it shows that you are competent, and if other people vote for you and you will stand a chance to enter the Legislative Council, it shows that you are smart. But it is not a sin to hold different opinions.

Some newspapers have made most scathing criticisms against remarks made by some Members whose political views are different from theirs. Who would believe that they, in doing so, do not have an axe to grind? Therefore, we must find ways to enable Hong Kong to do better on all fronts and with regard to the inadequacies ..... Particularly, as regards the next Chief Executive, I believe he has made many undertakings, but how is he going to honour them? Of course, we must appreciate that the Chief Executive has his family and social relationships, too, and we do not necessarily have to force him to cut himself off from all his relatives and friends. But if the relevant requirements and

stipulations can be set out in more express terms and with greater clarity, it would be good to everyone. This must be done, and as I said in the beginning of my speech, this is because of the inadequacies of the legislation, and there is no sufficient ground to substantiate an obvious breach of the rules. If there is an obvious breach of the rules, we can initiate an investigation into it.

Deputy President, some people even asked me why I have to put in good words for Chief Executive Donald TSANG who was the Financial Secretary when I was jailed in 1998. Deputy President, I do so precisely to make clear the point that we must be fair in whatever we do and even if anything has happened ..... it is all the more necessary to be forgiving; forgiving other people is our spiritual pillar in future.

Certainly, we in the Legislative Council want to have a say in just everything. This is only natural, because we come from all sectors of the community, and we have the support of different members of the public, which is why we are qualified to be sitting in this Chamber. If we do not work towards this objective in what we do, we will eventually be given up and abandoned by members of the public one day. But Deputy President, I maintain that there are inadequacies in the legislation and amendments should be made, so that the separation of powers in Hong Kong, whereby the Judiciary, the executive and the legislature exercising checks and balance on one another, can be bettered, hence achieving better results. It is not the case that we do not strive for improvement, but too many arguments will be grossly unfavourable to society as a whole, Deputy President.

**MR WONG YUK-MAN** (in Cantonese): Deputy President, with the collapse of clean politics the 160 000 civil servants in Hong Kong are thrown into disgrace. The scandal-ridden and corruption-infested Donald TSANG is still unwilling to leave his office and refuses to step down before the expiry of his tenure at the end of June. The People Power calls strongly for the impeachment of the Chief Executive and we have launched a signature campaign to call for the impeachment of this corrupt official Donald TSANG. Now we have collected some tens of thousand signatures and we expect the campaign to collect some 100 000 to 200 000 signatures in all. On 13 March, the Public Opinion Programme of the University of Hong Kong released a report and it was pointed out that the latest rating of the Chief Executive was 43.5, representing a drop by

3.1%. The rating was an all-time low ever since Donald TSANG assumed office and he was rated as having poor performance. Those who opposed his stay in office reached a high level of 71%. The wish of the people is clear enough and we oppose strongly any corruption in politics. Donald TSANG must step down at once.

(THE PRESIDENT resumed the Chair)

Donald TSANG was in dereliction of duty and he made up an excuse that he had been following the book, only that there was a gap between the public's expectations of him and his performance. As a matter of fact, those who act according to the book but resulting in a gap with public expectations are not limited to Donald TSANG. The Democratic Party, the Civic Party and the Labour Party all make excuses and refuse to join hands to move a motion to impeach this corrupt Donald TSANG. When these representatives of public opinion act in opposition to public opinion, when they do not comply with the law and hold themselves accountable, and when they are lame and powerless in curbing corruption, they are likewise in dereliction of their duty.

The pan-democratic camp wants to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to probe into the Chief Executive and move a vote of no confidence motion. The pan-democratic camp have dumped this power to impeach, so how can they talk about monitoring the Government? The impeachment motion will be negated in the division, so can this attempt to invoke the P&P Ordinance and move a vote of no confidence motion be passed in this Council which is dominated by the royalists? Impeaching the Chief Executive is a matter of what should be done, not a matter of what has actually been done. We must not mix them up.

If we want to make a strong political stand known, that is, oppose Donald TSANG being the Chief Executive, we can only take the course of impeachment. Article 73(9) of the Basic Law empowers the Legislative Council to impeach the Chief Executive and provided that a motion is sponsored jointly by one-fourth of the Members of the Council charging the Chief Executive with serious breach of law or dereliction of duty and if he refuses to resign, the Council may activate the impeachment proceedings. This will be an indication of the constitutional

power and responsibility of this Council in exercising checks on the topmost leader of Hong Kong. If this can be done, it will indeed be epoch-making.

In 2006 the Legislative Yuan of Taiwan had on three occasions impeached the former president CHEN Shui-bian who was involved in a number of cases of fraud. Although these impeachment attempts failed, they gave rise to strong repercussions in society. On 10 October 2007, that is the National Day of Taiwan, as many as 1 million people came out to answer the call of besieging the Presidential Office Building. CHEN then had to step down. Soon after the police had investigated his charges, he was prosecuted and jailed.

Now with this thundering call of "Down with Donald TSANG", the people of Hong Kong came out to join the march held for that purpose and an activity of "beating the small man". These were held on 3 and 4 March and more than 5 000 people took part in them. Any Member of this Council who has got any conscience should lend his or her support to the impeachment motion. Even if this impeachment motion will be negated by Members from the functional constituencies at the separate voting, the motion can nevertheless generate a force in society which is strong enough to oust Donald TSANG. Members from the pan-democratic camp have been in politics for so many years. Do they not know this simple truth?

Why do they not agree that the impeachment proceedings should commence right away? The argument on the surface is it must be fair and impartial. They claim that there are points of doubt in the case and the evidence is not strong enough. They also say that the impeachment should start after Donald TSANG has been convicted. These are all specious arguments. Based on the facts, including those facts admitted by Donald TSANG in public on 1 March, any count of the offences committed by Donald TSANG is much more serious than the one committed by Antony LEUNG in buying a car before the tax on cars was raised. In terms of morals and political ethics, TSANG must hold himself accountable. "Dereliction of duty" as provided for in Article 73(9) of the Basic Law is usually understood as the Chief Executive being negligent in performing his duties to such an extent that his act has brought disgrace to the title of Chief Executive. This kind of acts can be called a dereliction of duty. Now when we accuse the Chief Executive of dereliction of duty, we are acting on the grounds of law and we are totally justified.

Why does the pan-democratic camp not support the idea that the impeachment proceedings should start immediately? The real reason is none other than partisan differences. They oppose it because the Member who first suggested the idea of impeachment was Mr Paul TSE from the pro-establishment camp. The pan-democrats do not want to see other people taking the first step and steal the limelight. The other reason is that they think that impeaching the Chief Executive is way over board and the matter should not be made graver than it should be, for they may be branded by "Grandpa" as provocateurs. When it is a natural right and obligation to crack down on corruption, they have lost the most basic kind of moral courage, why should they still be in politics?

Leaving aside the question that the motion today will not be passed under the system of separate voting, even if it could be passed, can the motion play a part in subjecting TSANG to a public trial?

In 2003 when SARS broke out, the SAR Government under TUNG Chee-hwa was in serious dereliction of duty and 299 lives were lost as a result, including six medical and nursing staff from the public hospitals. Our economy was busted. The people of Hong Kong wanted to know the truth of the matter. Then the Legislative Council formed a select committee under the P&P Ordinance and looked into the incident. Just as the Select Committee had started its work, TUNG Chee-hwa who was the supreme commander in the anti-SARS drive refused to attend a hearing of the Select Committee on the ground that he felt it was constitutionally inappropriate for him to do so. He only agreed to entertain written questions and assigned the then Director of the Chief Executive's Office, LAM Woon-kwong, to attend the Select Committee hearings. TUNG emphasized that an "executive-led" government was the most important principle under the design enshrined in the Basic Law and there was no provision stipulating that the Chief Executive should be answerable to the Legislative Council.

Those remarks caused great controversies at that time. Many people thought that TUNG was in contempt of the P&P Ordinance which vested in the Council the power to summon witnesses. These people thought that the Select Committee should file a judicial review and challenge the legal stance held by the Government. The then Chairman of the Select Committee was Dr LAW Chi-kwong from the Democratic Party. Dr LAW said, to this effect, "There must be co-operation between the executive authorities and the legislature and

there must be balance and monitoring in their relationship. Where circumstance permit, it would be best if a proposal acceptable to both can be put forward. There should not be any attempt to resort to other procedures and settling a dispute in court would run counter to this principle." In the end, the Select Committee led by Dr LAW Chi-kwong of the Democratic Party acceded to the request of the Chief Executive's Office and a meeting in camera without videotaping and making of oath was held in Government House and attended by TUNG Chee-hwa. That was an extremely bad precedent. Will Donald TSANG not invoke this precedent? Will the democrats let him go?

A news commentator and Internet radio boss Stephen SHIU Yeuk-yuen published an article on 12 July 2004 entitled to this effect, "Why do democrats lavish their praises on TUNG Chee-hwa?" Let me cite the contents of some parts of the article for Members' reference:

"As a matter of fact, the Select Committee of the Legislative Council inquiring into the SARS incident has been very lenient to TUNG Chee-hwa. During the hearings, people like doctors, nurses, hospital staff and even members of the Hospital Authority and the relevant Director of Bureau were all summoned. But TUNG Chee-hwa who was the Chief Executive and Hong Kong's commander in the battle against SARS could have refused to attend the hearings held by the Legislative Council on the ground that it was constitutionally inappropriate to do so. The Select Committee might have acted on the strength of the Legislative Council (Powers and Privileges) Ordinance and summoned TUNG. But it had not done so and votes were cast internally on whether TUNG should be summoned. The result was that four persons voted in favour of summoning TUNG. They were Martin LEE and Andrew CHENG of the Democratic Party, Cyd HO of the Frontier and Michael MAK of the health services sector. The other six members of the Select Committee voted against the idea and the Chairman, Dr LAW Chi-kwong, did not cast any vote. As a result, TUNG Chee-hwa escaped the fate of being summoned. Then he only needed to meet members of the Select Committee in Government House and attend a meeting in camera. There was no need at all to make any oath. That means he did not have to assume any legal responsibility for everything he said. It was incredible that he should be treated with such great leniency .....

"The people of Hong Kong do not cherish any hopes in the members of the Select Committee from the royalist camp. But for those four members from the

democratic camp who voted in favour of the idea, why could they not hold on to their principles and publish a minority report urging the SAR Government under TUNG Chee-hwa to take the responsibility? ..... According to people from the Democratic Party, the Central Authorities would like to extend an olive branch to the democrats and so the democrats would not chastise TUNG in the report in exchange for this grace. And Dr LAW Chi-kwong was the person most likely to be appointed by TUNG Chee-hwa to the Executive Council. Therefore, he was prepared to heap praises on TUNG in exchange for this unprecedented favour. If this story is true, it is no surprise at all that TUNG was praised instead of being censured."

On 1 July 2005, Dr LAW Chi-kwong was commended by the SAR Government for his outstanding performance in the Legislative Council and he was awarded the Silver Bauhinia Medal. At last, the Democratic Party got its first-ever medal.

Now with the all-out efforts from the royalists, the motion today and the motion of no confidence which may be moved in future will all be voted down. It is sheer nonsense to talk about putting TSANG to a public trial for his corruption. I am sure the matter will die off if we do not start the impeachment and mobilize enough pressure in society. The greatest difference between us and the democrats is that we will never condone a Chief Executive who is rotten to the core. We need to take a forceful and decisive move now for the sake of political accountability and nip corruption in the bud.

On 27 February, the *Ming Pao Daily News* reported to this effect: CHEUNG Man-kwong, spokesman of the Democratic Party on civil service matters, made the criticism that because Donald TSANG had taken "small favours" and now he has to face a huge crisis of no confidence. Even if he has made the payments, the amounts paid clearly fall short of public understanding. He is urged to donate to charitable organizations the difference between the amount paid and the actual value of the hospitalities accepted on four occasions, and the difference in the rents paid and market price with respect to the Shenzhen penthouse, plus the difference between the tax concessions granted as a result of his donating the proceeds from his wine auction to charity. This is to pacify public outrage. Then he should apologize to the public and come to the Legislative Council to give an account of whether or not he has used his powers to advance private ends. Can making donations, giving an apology and coming

here to give an account of the events settle everything? Why is the Democratic Party always trying to gloss over and water down things?

When more and more scandals surrounding Donald TSANG are exposed, why is the Legislative Council unwilling to impeach him? Why is the Council repeatedly trying to gloss over the calls of Hong Kong people for TSANG's resignation? Do they not know that as long as this shameless person is in office, the people of Hong Kong will all be put into shame?

On 6 March, Commissioner of the ICAC TONG Hin-ming made a clarification that the ICAC had never announced that a file had been opened to commence an investigation into Donald TSANG. It is the policy of the ICAC all along that it will not comment on any individual case and it will not reveal the identity of the persons under investigation and the relevant details. Under the current Prevention of Bribery Ordinance, the Chief Executive is exempted from the regulation of two important provisions, namely sections 3 and 8. If there is any person who thinks that TSANG will be held criminally responsible after his stepping down from office, I would think that this is only wishful thinking.

There is of course sense in pursuing the criminal responsibility of a person, but with respect to the present case, this will only serve to penalize a former Chief Executive. What we are trying to do is not to target a particular person, but to uphold and defend ethics in politics and cleanliness and integrity. In 2003, Antony LEUNG came under the bombardment of Members of this Council for buying a car before the tax came into effect and eventually he had to bow a graceful exit. Now nine years after that, if Donald TSANG does not have to be held accountable and step down, what then is the difference between Hong Kong and Mainland China, and why is that line of morality retreating farther and farther backwards?

Ever since the reunification, every Chief Executive returned by small-circle elections will not end his term of office in peace. This applies to TUNG Chee-hwa. It applies to Donald TSANG. LEUNG Chun-ying who has gained the strong support of Beijing will likewise see an unnatural end. About this Donald TSANG now in his final moments, why does he do these things in the last year of office? It only shows the dark side of human nature and the unchecked and unbridled desires of humans.

My party comrade, Mr Albert CHAN, is most concerned about the civil servants. Recently, he has done something in support of some retired policemen. When he discussed this incident, he cited some examples of civil servants making mistakes. If we look at the things which Donald TSANG has done, we can see that in comparison, he has not been subject to any sanction. Had Stephen LAM done the same thing, he will certainly be put in jail. What kind of a system is this and what kind of politics is it? Can it be called clean at all?

Just now Raymond TAM read from his draft speech unabashedly. He was simply reading that draft speech from Donald TSANG. Of course, TSANG is his boss and we have sympathies for his entourage of accountable officials. Now there are just a few months left and they are really in their final moments. The sun is set on them and soon they will be gone. The sun is about to set, but we have to defend clean politics and we cannot help but sanction this last-day government and impeach it. This is the system, and this is the spirit of our constitutional framework. How can Members of this Council renounce their responsibility?

The pan-democrats are panicking over the possibility of LEUNG Chun-ying being elected and they call on members of the Election Committee to cast blank votes. What if LEUNG Chun-ying is really elected? What should we fear about? For me, I am braced up for this rule of Hong Kong by the communists. I will fight to my last breath with him. Is Stephen LAM not a communist? Is he? Will he be the Chief Secretary? Let him be the Chief Secretary. When LEUNG Chun-ying and Stephen LAM are there together, it would be a miracle if there are no chaos and confusions in Hong Kong. Or if there are LEUNG Chun-ying plus that woman with a broomstick hair-do. She is the person behaving in a most cheap manner. She is speculating and sailing in the direction of the wind. She pretends to be a nice person whereas she is taking all the advantages.

Just take a look at this Council, if there is no major revamp of it, I am sure after the elections in September, all Members will have their final scores settled. That applies to the DAB, the democrats, voters and the power of the people. All those who run counter to the will of the people and all who betray the voters must bear the consequences, and they will be swept out of this Council. What will be

left will be the radicals and they will fight head on with the communists. This is the future of Hong Kong as I see it.

Thank you, President.

**MR PAUL TSE** (in Cantonese): President, after Mr CHIM Pui-chung and Mr WONG Yuk-man have given their speeches with such marked skill and poignancy, it would be quite difficult for me to speak afterwards. This is especially the case if you have a different stand from that of Mr WONG Yuk-man, and you would have to be very careful if you want to refute his arguments. However, it is equally difficult if you hold the same stand as that of Mr WONG because he has almost said everything that you may wish to say.

President, with respect to this incident, the view held by Mr CHIM Pui-chung is inclined towards the idea that we should not hold a media trial. He said that there is already confusion in our society and he hoped that there will not be any more confusion in it. President, the only thing I can say is that we can look at some events in history. The Second World War ended in 1945 and Britain held its first postwar election 10 years after 1945. At that time, the person who contested the race on behalf of the Conservative Party was Sir Winston CHURCHILL. He was certainly a hot favourite and everybody thought that he would win. But the result was most disappointing. The opponents had a landslide victory while the Conservatives lost 190 seats in the Parliament. The party was totally beaten. In an interview after the election, Sir Winston said something and that impresses me very much, he said, to the following effect, "Cruelty to a political figure is the realization of the great power of the people."

President, why do I have to propose this motion to impeach the Chief Executive? It is absolutely not meant to target Donald TSANG himself. I am not a personal friend of his and I do not bear any personal grudges against him. The most important thing is that, in Hong Kong, he has a supreme position in the constitutional system. Some newspapers and netizens have derided TSANG as the "Number One Covetous Official". Of course, there are also people who object to that. They say that he does not deserve to be called the "Number One Covetous Official". What he sought were only small benefits and nothing substantial. But as the first person, not the first lady, or the Number One person in Hong Kong, any offences made by him would naturally be called number one.

Now his craving after small benefits and trivial favours makes him the "Number One Covetous Official".

President, as we all know, Article 47 of the Basic Law requires that the Chief Executive "must be a person of integrity, dedicated to his or her duties". Since the Chief Executive enjoys such a supreme position in Hong Kong and he is second to none, how should he realize his integrity and dedication? We know that he has got some books without words, so to speak, that is, rules that are only known to him. Mr Alan LEONG made a criticism of it earlier on. The Legislative Council is the only organ that can act on behalf of the people of Hong Kong and conduct an investigation into the Chief Executive with respect to his integrity or any misconduct in political ethics. The Legislative Council has such a duty and the Basic Law has also vested the power and mechanism with the Legislative Council to enable it to do so.

As I have said in some public forums, there is a Chinese saying which means to this effect, "There is a special cure for every problem.". We do not know which cure is especially effective or which one is totally useless. It is because the Chief Executive is in such a position beyond compare that there is this impeachment mechanism which is tailor-made for him and bearers of that office. It is a mechanism that addresses misconduct in that regard and we should not and cannot only rely on other existing mechanisms like the Independent Commission Against Corruption (ICAC), or any other criminal investigation mechanism, or even the so-called vote of no confidence motion, or what many other Honourable colleagues have advocated using, that is, the investigation procedures under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance).

President, there ought to be a timing for everything. For Chief Executive Donald TSANG, his timing is very tight. The day 30 June is a deadline. After that, it would be meaningless to do anything. If it is found after investigation that there is any consequence of a criminal nature, this will have nothing to do with our Prevention of Bribery Ordinance because, obviously, section 3 does not apply to him. But if there is some misconduct on the part of a public servant, there is a possibility that criminal liability at common law may be involved. This is, however, what happens afterwards. More importantly, however, we should act on behalf of Hong Kong people in a timely manner. When any person holding the office of the Chief Executive has made any mistake with

respect to his duties under the Basic Law, and when after he has made a moral blunder, we should do something to sanction that person. So timing is very important.

President, many Honourable colleagues have advanced the excuse that we should not start the impeachment action so soon. They say that this is an ultimate mechanism, a mechanism which puts people on trial before an investigation is conducted. With respect to this idea of an ultimate mechanism, since we are dealing with a topmost official, we have to use this ultimate mechanism, tailor-made for the bearer of that office. As for procedural justice, the Civic Party always talks about this idea of procedural justice, but it will not recognize it when conditions for procedural justice are met.

With respect to this incident, we can look at the mechanism concerned from two aspects. The impeachment mechanism referred to in Article 73(9) of the Basic Law is a self-contained mechanism. It includes a procedure that the relevant motion shall be passed in the Legislative Council on two occasions. Then there is also a special mechanism, that is, the case should be passed onto an investigation committee headed by the Chief Justice of the Court of Final Appeal. In theory, the case is to be handled by an organization the integrity, expertise and capability of which is beyond doubt. The investigation is to be conducted in public, and of course, meetings can be held either in camera or in public. These are options available. In theory, the committee can definitely invoke the P&P Ordinance to conduct a public investigation. After conclusions are made, the results can be submitted to the Legislative Council for voting and passage by a two-thirds majority of Members. This is a process in which many steps have to be taken. More importantly, we are not saying that provided that the impeachment motion is passed, the Chief Executive is considered to be guilty instantly and his immediate resignation is called for. What we have in actual fact is an accusation, an accusation sufficient to activate the process. Once the process is activated, other built-in procedures are also activated. So in this self-contained mechanism, there are in fact many procedures that have to be taken, including a timely and fitting investigation.

President, many Honourable colleagues said that not only one accusation is involved in this case, that is to say, not just the posh apartment in Shenzhen that Mr Paul TSE is talking about. There may be other matters to be investigated. President, the argument with respect to this is simple. When a so-called sample

charge is found to be substantiated and there is *prima facie* evidence, and that also includes the facts admitted on many occasions by Mr TSANG, this has constituted an admission. This can be a confession or admission of guilt. Speaking of the criteria for criminal investigation and conviction, this is already sufficient for a conviction. It is even proof beyond reasonable doubt. So I do not see why we should expend a lot of public money and time on it. We should not say that we will meet some difficulties in the process of passing the motion and there is also a need to invoke the P&P Ordinance and move a motion of a vote of no confidence or set up a committee of inquiry. All these are impractical. The most useful move is to use the impeachment mechanism which is tailor-made for the Chief Executive and this is the most useful move to take.

Some Members of this Council may be in team B and some may be undercover agents for the pro-establishment camp, and there may be reactionary members in the pro-establishment camp itself. Maybe I am an independent Member of the Council placed in between the two camps. I can talk about my views and stand at the right time. But in my opinion, the situation this time is very confusing. We do not know who really belong to the pro-establishment camp and who are the undercover agents of the pro-establishment camp; or who really belong to the democratic camp and who really are undercover democrats. It is all very confusing.

President, I think I must emphasize one thing and that is, we have a tailor-made mechanism for the Chief Executive and the facts of this case satisfy all the requirements for activating the impeachment mechanism. As a matter of fact and when compared to many of the precedents, including those related to civil servants — I am sure Mr Albert CHAN will talk about many such precedents later on to show that the acts done by the Chief Executive are enough to lead to very serious consequences. Had he been an ordinary member of the public, he would have been charged at once and even convicted and sent to jail. Even if we leave aside criminal matters, as Mr WONG Yuk-man has referred again to the case of Antony LEUNG and I do not think I need to recap it, cases like that show that what Mr Donald TSANG has done are definitely sufficient to constitute a case of serious dereliction of duty and a charge. It should be sufficient to activate the impeachment mechanism found in the Basic Law especially designed for the Chief Executive.

President, we often talk about matters like an inquest and we consider that there is a need to undertake sufficient investigation and ensure that there is a due process of justice before any decision is made. As I said just now, this case is so straightforward and all the facts are there. There is also an urgency in timing in that something must be done by 30 June or else anything done after that will be meaningless.

I wish to cite an example now. It may be somewhat harsh or cynical, but I wish to talk about it anyhow. Suppose someone has passed away and in some circumstances which are considered to be not so desirable, a burial has to take place at once. It may be burial under the ground or the body is thrown into the water. This is because there are simply not enough time and the right conditions to undertake a normal inquest or burial. And we have to make a decision at once because we cannot afford to insist that the body be shipped to the place of origin and buried properly or that proper rites should be observed and an inquest made, for the body will decay and stink. Certainly, I do not mean any sarcasm of Mr Donald TSANG, saying that he has got this problem. I am just citing an example which is quite an exaggeration. Since such a process is available and since the party involved has admitted that all the facts are true, then we should not be so simple-minded and foolish as to insist that the matter be handled only after certain requirements of a system are fulfilled.

President, why do I not agree that the P&P Ordinance be invoked? In the next couple of weeks or so, we will see with our eyes that invoking this Ordinance and setting up an inquiry committee are not effective at all in terms of the procedures and even the mechanism itself. It may even be useless and impractical. Why am I saying this? President, as I have said many times, for cases which do not have any documentary proof other than the oral testimony of one witness — recently the accusations made by the two candidates for the Chief Executive race of each other are not backed up by any documentary proof. There was only an exchange of remarks between them. Of course, there may be people on the spot who do want or are unwilling to speak out for some reason even though they may have actually heard or seen it. In any case, when we can only rely on oral testimony, and if we want to find out the truth or come anywhere close to the truth, we can only resort to interrogations. And speaking on the skills of interrogation, it must be noted that we are not talking about members of the committee asking questions in turn for 10 or 15 minutes and from various perspectives and thus some tracks will be formed like the story-line in a

movie. But I must say that when all these parts are linked up, it is hard to see a whole picture from that movie and so it is hard to follow up the case.

So the situation is like watching a movie. The inquiry committee may be unable to gain a full understanding of the case when each member asks questions for 10 minutes. It is because there are too many story-lines and the actors just act differently. The members cannot corner the witnesses, so to speak, and force them to tell the truth. In such circumstances, we will waste a lot of time and efforts. We can only obtain very little information despite the great efforts made. This is why the inquiry into the LEUNG Chin-man case or in many other inquiries, we have wasted a lot of time. Now the inquiry into LEUNG Chun-ying may end up having the same result, with much time being wasted and no information obtained. This is, after all, only a political show. Now we have a better mechanism, especially designed for the Chief Executive, but we prefer not to use it. On the other hand, we insist that we should invoke the P&P Ordinance. This is a simple-minded approach. And as to the question of whether there is any political motivation behind this, I think Members can make their own judgment.

As for the investigation being conducted by the ICAC, some Honourable colleagues said earlier and the pan-democratic camp also agrees, that it is not practical at all because the truth can never be uncovered. The only conclusion is that if we do not proceed with the impeachment mechanism now, there are got to be some other reasons for it. Those Honourable colleagues who oppose it say that they wish to move a vote of no confidence in the Chief Executive while they also say that they wish to invoke the P&P Ordinance. But they will not agree to using this tailor-made mechanism to impeach the Chief Executive.

President, I think I also need to stress the point of public money. This is because the proposal regarding the impeachment mechanism will not necessarily be passed and it is likely that it cannot be passed. However, and as Mr WONG Yuk-man has said, activating the mechanism itself carries a certain degree of significance *per se*. So regardless of whether the motion can be passed, I hope that the Honourable colleagues concerned can reconsider lending their support to the impeachment proposal.

On the motion to invoke the P&P Ordinance, I abstained on it when the matter was put to the vote in the House Committee. After careful consideration,

I am inclined to supporting the use of the powers conferred by the P&P Ordinance. But the reason why I support the idea is that as a matter of principle, I think I should make my stand known in this matter. But, actually, I have very great reservations about invoking that Ordinance to conduct an investigation because of the time factor, its effectiveness and meaning.

I hope that since I have displayed a co-operative attitude, I would also hope that the opposition camp ..... sorry, I should have said Members from the pan-democratic camp ..... should support my motion of activating the impeachment mechanism after considering the results today. Thank you, President.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, all along Hong Kong is renowned for its clean and law-abiding civil service. For many years, our cleanliness rating has been placed in the forefront of the world many times. As compared to the corruption on the Mainland and the so-called "black gold politics" in Taiwan, the Civil Service of Hong Kong can well be said to be a clear spring in the murky waters of corruption in Chinese societies around the world. This is also a core value in which we people of Hong Kong take pride and for this reason, we should cherish and defend it.

President, Chief Executive Donald TSANG joined the Government in 1967. He was in the Civil Service for 35 years until he resigned to take up a post as an accountable Secretary of Department. With respect to things like the code of conduct or laws and regulations on corruption, dereliction of duty or acceptance of advantages by civil servants, I am sure he should be well-versed in all of these and understands each one of them well enough. On top of that, he has been the Chief Secretary for Administration and later as the Chief Executive for almost 10 years and I am sure he must understand and know that the people have a higher expectation for the Chief Executive and the accountable officials. This is because, as we know, policies formulated by the Chief Executive and the accountable officials will have far-reaching impacts on the interests of not just ordinary members of the public but also the giant consortia. So he should be very careful about his speeches, conduct and private life. Unfortunately, things turned out not that way and the events that took place of late make us feel very disappointed.

President, I remember that before these incidents were exposed, the Chief Executive said in a flamboyant manner in a radio interview that he hoped the people of Hong Kong would not miss him after his retirement from office and they should instead focus their attention on the new Chief Executive. This Chief Executive has always taken lightly of popularity ratings and he might give people an impression that he does not care about such stuff. However, when we review these incidents, we will find that we should have read between the lines. It turns out that the hidden line is that he hopes Hong Kong people will not remember the ugly and despicable acts of corruption committed by him and they should only think about the acts of the new Chief Executive who does not have any integrity and moral fibre. This could well be what he wanted to say, only that he did not flesh it out.

Before the Chief Executive assumed office, he once said that he wanted to "make a big game of it". At that time, we all thought that he was referring to the constitutional reform and there would be some major reforms. When he put forward his constitutional reform package in 2005, I found that his proposals fell far short of my expectations. We were all very disappointed and we accused him of going back on his words. This was what he meant by "making a big game of it". Now we know that we got it wrong, and that was not what he meant. He was not referring to the constitutional reform. It turns out that he meant that he would be using his powers to advance his personal ends. He was saying that he would be "making a big game of" private jets and luxury yachts. So we have really got it wrong and misunderstood him. The Chief Executive has said a lot of things to us, only that we have not been listening carefully. When he as the Chief Executive has done such things, does he command our respect and can we be proud of him? This warrants some thinking by us afresh.

In any case, if the Chief Executive is not careful about his conduct and integrity, it would not do any good to the public at large. It will do no good to society. Now we know that the Chief Executive has accepted the hospitality extended to him and taken trips on private jets and yachts. But to our great surprise, he did not realize that these treats had something to do with the policies introduced by him. It had never occurred to him, he said. Also, his conscience was clear when he made the relevant decisions and policies. He said that there was no need for him to make declarations. With respect to the application for a licence for digital broadcasting, he said to our great surprise that it had never occurred to him that there was any connection and so he did not make any

declaration. I suspect that he is a subscriber to the notion of "quod licet Jovi, non licet bovi". He is a major policymaking official, can he just say that his conscience is clear and so he does not have to make a declaration? Is this an appropriate course of action? Mr Albert CHAN has just cited many cases. He said that some civil servants had been jailed because of some minor acts of corruption and the amount of bribes taken was actually not that large. The reason was that these civil servants had not made any declaration or there was corruption in their acts. But when the Chief Executive has accepted hospitalities, he says blatantly that his conscience is clear and he does not need to declare anything. Can he get away with it like this? Are these things acceptable? I do not think so.

The fact that the Chief Executive has done this only makes people think that he is only trying to salvage a ruined reputation. But this will only make government operation all the more difficult in future. Of course, some people may say that the Chief Executive does not want to do that and he is treating the issue very seriously. An Independent Review Committee was set up expeditiously and tasked with formulating codes or policies to pre-empt the occurrence of similar incidents in the future. However, I wish to raise this question: Even if a new proposal is formulated, does this mean that the Chief Executive does not have to care about this anymore? In that case, does it smack of him being lenient to himself but being harsh on others? If he does not have to be punished whereas any person doing the same thing will be punished, would this be fair?

Therefore, we should commence the hearings and investigations in order to make it clear whether or not bribery and dereliction of duty are involved. If they are substantiated, then we must take follow-up action and decide what penalties should be imposed on the Chief Executive. We must not sit on it. We hope to keep a clean civil service team. For if not, if any civil servant should make the same mistake and is about to be punished, he would say, "The Chief Executive has done the same thing before. Why should I be punished while he can get away with it? Is that fair?" Then how are we to face queries like these? There is no satisfactory answer to these questions. So we cannot let the matter go easily and do not care about it.

Even when some people think that this is not an appropriate course of action, I would think that it does not really matter. We can start with the

hearings and see whether this move we take is really unfair. We wish to let the people know all the developments of this incident and then make a fair judgment. This would be much better than the current approach. If we do not do anything about this incident and if we just sit on it, it will only lead to even more long-term undesirable implications. The Chief Executive made the following remarks to the public when he appointed Andrew LI as the Chairman of an Independent Review Committee on potential conflicts of interest: "It is only when there is a sound system that we can uphold the reputation and dignity of public office. A system is therefore more important than individuals." These remarks sound very important and we should uphold this spirit now. I therefore support the motion today. I also hope that a new system with credibility can be built up to restore public confidence.

President, I so submit.

**MR ALBERT CHAN** (in Cantonese): President, the debate today on invoking the Legislative Council (Powers and Privileges) Ordinance to inquire into the "Number One Covetous Official of Hong Kong" can be said to be the first of its kind in the territory. Certainly, during the TUNG Chee-hwa era, I had proposed a motion in this Council calling for TUNG Chee-hwa's resignation over his governance problems. As a Chief Executive, Donald TSANG's greediness can be described as a shame for Hong Kong people as well as all accountability officials. It can be said that they are embarrassed and have lost face for having such a greedy boss.

President, I found it really ludicrous when I counted the number of cases involving Donald TSANG's abuse of power for personal gains, so to speak. It is hardly acceptable that he can be so greedy that he has borrowed a treadmill for 10 years. What will the Government do to deal with a civil servant who has borrowed something and kept it for 10 years? Should "Eunuch LAM" have any valuable items which are no longer useful to him, he may lend them to the poor, such as lending out a house to residents of "sub-divided units" for a short while. Many people will thank him if he can do so for a year, not to mention 10 years.

The Chief Executive has even said that his stay in a lavish room in a casino was arranged by his son. As everybody knows, it is simply impossible for ordinary people without a special status to stay in this kind of extravagant rooms.

The Chief Executive may not possibly have no common sense of this kind and absolutely no idea of the circumstances.

Concerning the reports about him having joined such tycoons as Dr David LI on a private jet for a visit to Japan, the Chief Executive has absolutely not given any account of whether he really paid and how he paid for the trip and, apart from the air fare, arrangements concerning dining and hotel accommodation.

Furthermore, the Chief Executive had merely paid \$500 for his trip to Macao with a tycoon in April 2011 and stayed on a yacht for three days and two nights. The Chief Executive was suspected of corruption as a result of the dining and accommodation benefits involved during the period.

During another "deluxe trip" made by him to Macao on 20 February 2012, the Chief Executive again paid \$500 only. When joining a number of tycoons on a private jet for a private tour to Phuket between 9 February to 12 February 2012, he also paid the so-called ordinary air fare arbitrarily. In February 2012, he signed a tenancy agreement for a lavish apartment in Shenzhen and paid a market rent. But the refurbishment cost is so high that the owner will be unable to cover it even with three years' rent.

Furthermore, it was recently disclosed that the Chief Executive and his brother, that is, the former Commissioner of Police, were suspected of rubbing shoulders with a triad member on the Mainland. Although it is said that it was just a photograph taken with a member of the public, Members can find from the photograph and the arrangement on that day that the person in question had obviously a part to play in entertaining them. Whenever the Chief Executive was quizzed by the media, that is, from the time when the *Oriental Daily News* first revealed his ugly and corrupt behaviour, he would answer only three of the eight or two of the six questions asked by reporters. He had absolutely no wish to entertain the media's enquiries. Had there been no skeleton in the closet, and had there been nothing that could not be disclosed, why did he refuse to respond to or answer these specific questions posed by the media? Why could he not tell the media when he was asked who had paid for the meals and whether he had paid? Obviously, he was unwilling to disclose all this to the media because he had accepted advantages.

President, the incumbent Chief Executive, as the "Number One Covetous Official of Hong Kong", comes first on 10 different counts. First, he is the first Chief Executive who violated the Framework Convention on Tobacco Control (FCTC) because of his acceptance of hospitality from tycoons, and one of them is the proprietor of a tobacco firm. An anti-smoking group, the "Clean the Air", has written a letter to the Legislative Council questioning whether Donald TSANG's acceptance of the yacht conveyance service provided by Charles HO Tsu-kwok, the owner of Hong Kong Tobacco Company Limited, has constituted a breach of the FCTC, with one of its signatories being China. The Chief Executive's breach of the FCTC has brought both Hong Kong and China into disrepute. Despite his pet phrase that he is a patriot, he has done such things, thereby subjecting the great Motherland to international criticism and causing some of the officials of our nation to be criticized for violating the FCTC.

Second, he is the first Chief Executive who helped himself to all sorts of air, land and sea hospitality. Third, he is the first Chief Executive who accepted hospitality in Guangdong, Hong Kong, Macao, Thailand, Japan and the United States. Fourth, he is the first Chief Executive to be investigated by the ICAC. President, I am certain that the ICAC has formally launched an investigation into Donald TSANG. Fifth, he is the first Chief Executive who attended a banquet attended by triads. Sixth, he is the first Chief Executive who paid the fare of an ordinary air ticket for a ride on a private jet, and also the first Chief Executive who paid \$500 for a ride on a mega-luxurious yacht. Seventh, he is the first Chief Executive who believes that one can pay only \$400 for abalone and Cordyceps sinensis, also known as caterpillar fungus. Eighth, he is the first Chief Executive who borrowed a treadmill for up to seven years. Ninth, he is the first Chief Executive who sought relief from Mainland people for "sunflower chicken" and flowering cabbage produced in Zhengcheng. Tenth, he is the first Chief Executive whom Legislative Council Members have attempted to impeach. Five Members have now indicated their willingness to put down signatures. Should today's motion be vetoed, I hope pan-democratic Members will still be able to secure support from 10 more Members to enable the impeachment mechanism to be activated.

President, during our district visits to launch the signature campaign calling for the impeachment of the Chief Executive, many members of the public asked us whether "a judgment should be passed before trial" since an investigation is being conducted by the ICAC. The vast majority of the public do not

understand that our investigation can proceed in parallel with the one being conducted by the ICAC. In terms of logic and the focus of the issues, there is actually a difference between the two, as with the resignation of Antony LEUNG years ago on account of accountability. The current proposal of impeachment is based on the requirement of political accountability, whereas the inquiry conducted by the ICAC is a criminal investigation. We propose that the Chief Executive be impeached mainly because his conduct has brought the office of Chief Executive, the Government and even the entire accountability team into disrepute. According to the Basic Law, it is considered a dereliction of duty. As the Chief Executive, he went so far as to seek sunflower chicken, a treadmill and air, land and sea hospitality, including hospitality on a luxury yacht and a private jet, frequent the banquet hall of a casino for pleasure, and stay in a casino hotel. He is really insatiably greedy.

First of all, the Chief Executive should not have committed such acts of corruption, and such acts have seriously undermined the prestige of governance and affected the confidence of the 160 000 civil servants in the Government as well as their morale. As Members are well aware, it is absolutely not an easy task to build up clean governance in Hong Kong. When I was young, I learnt from the news about policemen besieging the ICAC and society was in a state of panic and chaos at that time. In the end, thanks to the persistence of MacLEHOSE and support of people from all walks of life, the ICAC eventually managed to build up credibility, and the Government had gradually become an internationally acclaimed capital of clean governance and administration. It is absolutely not easy to come by.

During the reunification, many people considered it important to fight for democracy, while some considered it hopeless to do so. Nevertheless, many people still insist on defending Hong Kong's core values, particularly upholding the two significant bastions, including the rule of law. Nevertheless, the rule of law has gradually collapsed, and the Court has gradually been reduced to a "bouncer" for the dictatorial governance of the establishment. It is very sad indeed. Surprisingly, two innocent students, plus two people who did not participate in storming the venue, were sentenced to jail for three weeks. This can be said to symbolize "the rule of law is dead", and the sounding of the death knell has also begun.

Clean governance, which is still an important cornerstone of Hong Kong, must be maintained for political, economic and social operation. However, the lead taken by the Chief Executive in engaging in corruption has plunged the entire institution into a crisis. The Commissioner of the ICAC, who is appointed by the Chief Executive, has often been found playing golf with tycoons alleged to be involved in the acts of corruption committed by the Chief Executive. This is also a very serious issue. Persons taking charge of disciplined forces and holding key posts must have strong and powerful alertness. They must also be indiscreet in their private lives. MacLEHOSE, who was a golf enthusiast, was unfamiliar with the environment around him when he first arrived in Hong Kong, and so he went playing golf in Fanling. When he found out later the people playing golf with him were influential tycoons, he immediately stopped all the activities with them. He even refused to mix with them in private functions. The TUNG Chee-hwa era was different. We all know that the then Financial Secretary, Antony LEUNG, was fond of playing golf with tycoons. Surprisingly, the incumbent Commissioner of the ICAC is also fond of this game.

Once such relationships are established, Hong Kong's clean image will definitely suffer a severe blow and decline gradually. The continued existence of the Chief Executive's acts of corruption, coupled with the fact that his acts are harboured by numerous Members and functional constituency Members in this Chamber, has seriously rocked the clean governance of the whole territory. Even its cornerstone has started to gradually shake. Many people agree that the ICAC has already launched an investigation and the Chief Executive has appointed the former Chief Justice of the Court of Final Appeal to chair an Independent Review Committee to carry out a study and review. This is actually extremely ridiculous for, if the Chief Executive is a man of integrity and aware of the significance of cleanliness, and if he believes that his own conduct does not involve any acts of corruption, he should have appointed the Chief Justice to probe into whether his alleged acts of corruption are in breach of any codes or involved in personal gains while setting up an Independent Review Committee. However, he is so mean and shameless that he has narrowed the duty of the Independent Review Committee to examining and reviewing rules for future Chief Executives. Obviously, he is imposing a death sentence on his own behaviour. He dares not face an investigation because he is aware of his own problems.

The motion today is very likely to be vetoed. After it is vetoed, I hope pro-democracy Members can support Mr Paul TSE's proposal to activate the impeachment mechanism to do justice to members of the public and prevent Hong Kong's image as a capital of cleanliness from being affected by the Chief Executive's corrupt conduct. Thank you, President.

**MR IP KWOK-HIM** (in Cantonese): President, the Independent Commission Against Corruption (ICAC) has recently caught the press limelight quite frequently. Whether in respect of the incidents involving the acceptance of hospitality by the Chief Executive, Mr Donald TSANG, or various allegations and queries in relation to the Chief Executive Election, many people or political groups that are concerned about these incidents and even the key persons involved in the incidents have taken the initiative to lodge reports with the ICAC or provide information to assist the investigation by the ICAC. This precisely shows that the saying, "Hong Kong Our advantage is the ICAC" has not only taken root in the hearts of the people, but also given assurances that the rule of law and the principle of probity are guaranteed in Hong Kong. Apart from the efforts made by all the people, that Hong Kong can become one of the places with the least corruption is, to a very large extent, attributed to the commitment made by the ICAC in fighting corruption over the years. Therefore, the arrangement for an investigation to be conducted by the professional and credible ICAC into the recent incidents involving alleged acceptance of hospitality by Chief Executive Donald TSANG is most suitable and most capable of demonstrating Hong Kong's commitment to upholding probity and fairness as well as combating corruption in society.

Concerning the incidents of alleged acceptance of hospitality by Mr Donald TSANG, the explanation that has been given recently may not be satisfactory at all. For example, regarding the people who travelled abroad with the Chief Executive on yacht or by plane, and the expenses on dinning and entertainment during these trips, the Chief Executive has not disclosed the details on the ground of privacy, making it difficult for the public to make a judgment as to who is right and who is wrong. However, in order to find out the truth of these incidents, allay public concerns, and restore the confidence of Hong Kong people in the SAR Government in upholding honesty and probity and in abiding by the law, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers it most appropriate to respect and attach importance to the existing

system of this fair and clean society of Hong Kong, and also respect and attach importance to the role and functions of the ICAC which has been making every effort to uphold this system. We, being Members of the Legislative Council, should not lose confidence in the system of Hong Kong, still less in the ability of investigation and impartiality of the ICAC.

If even Members of the Legislative Council in this Chamber do not attach importance to the investigation by the ICAC and hastily invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to obtain information and summon witnesses without waiting for the investigation report of the ICAC, how can we reassure members of the public that the existing mechanism of investigation can professionally and effectively uphold fairness and probity in society? Worse still, if the Legislative Council invokes the P&P Ordinance to conduct inquiries while the investigation by the ICAC is underway, not only would this give people the feeling that the Legislative Council has doubts about the credibility of the ICAC, this would even unduly bring pressure to bear on the ICAC. I believe this is not an outcome that Hong Kong people would wish to see.

I have listened attentively to the speeches made by a number of Members earlier on. Mr CHIM Pui-chung mentioned the need to defend and firmly uphold Hong Kong's core value, namely, the spirit of the rule of law, and I very much agree with him. Mr LEE Wing-tat explained that he had proposed to invoke the P&P Ordinance to obtain documents at this stage because the investigation by the ICAC and that by the Legislative Council have different starting points. How are their starting points different? They are different in that the standard of proof required for prosecution by the ICAC is very high and therefore, this is not suitable. I have misgivings about this point. Please take a look at those banners on the right hand side behind me, on which it is written "No corruption and depravity", "Number One Covetous Official of Hong Kong", "enjoying bribes here and there", "taking the lead to accept bribes", and so on. This shows that Members in this Chamber do have a different starting point, which poses an obstacle to impartiality. Such being the case, how are we going to carry out an investigation?

Therefore, the DAB holds that allowing the ICAC to first investigate various allegations against the Chief Executive under the existing proven system is the most appropriate arrangement and also most in line with the fundamental

interests of Hong Kong. The DAB opposes the setting up of a select committee and the motion on authorizing the Panel on Constitutional Affairs under the P&P Ordinance to conduct an investigation into the Chief Executive. As regards the proposal to invoke the P&P Ordinance to obtain the relevant information in the original motion, as I already pointed out earlier, we consider this inappropriate. We hold that this arrangement should be made only when substantive results are available upon the completion of the investigation by the ICAC.

These incidents of alleged acceptance of advantages by the Chief Executive do not only involve the personal integrity and credibility of Mr Donald TSANG, but have also aroused discussion in the community on the various systems for preventing conflict of interest and for declaration currently governing the Chief Executive. On the question of whether there is a problem with the integrity of Mr Donald TSANG, we will wait for the independent and fair investigation report of the ICAC. In respect of improving the declaration system for the Chief Executive, we hope that the Independent Review Committee chaired by former Chief Justice of the Court of Final Appeal, Mr Andrew LI, can put forward comprehensive and effective recommendations, so that the various standards governing the Chief Executive will be given greater clarity and better institutionalized.

I so submit.

**DR MARGARET NG** (in Cantonese): President, Mr IP Kwok-him has just opposed this motion on behalf of the DAB. One of the reasons given by him is that the Independent Commission Against Corruption (ICAC) is investigating the alleged breach of the Prevention of Bribery Ordinance by the Chief Executive. But this motion today actually seeks to launch an investigation not only into whether the Chief Executive was involved in corruption, but also whether there is an integrity question on his part and whether his conduct is unbecoming of him as the Chief Executive. The investigation of the ICAC is confined to the criminality of the case. It is not in a position to investigate other matters.

Second, Mr IP Kwok-him also pointed out that on the question of the integrity of the Chief Executive, we can let the Independent Review Committee chaired by the former Chief Justice of the Court of Final Appeal, Mr Andrew LI,

carry out an investigation first. But as the Independent Review Committee has stated very clearly, its objective is to study what rules should be laid down in the future, so it is about the system, not the acts of the Chief Executive. Therefore, I think both reasons cannot hold water.

President, this motion today is actually about whether we should exercise the powers under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to conduct an investigation. But during the debate, many Members mentioned a motion on impeachment, the impeachment procedure and other issues, and they seemed to think that the proposal to exercise the investigation power under the P&P Ordinance is made because the pan-democratic Members do not wish to propose a motion on impeachment. I think I should take this opportunity to explain to members of the public the various constitutional powers vested in the Legislative Council, as well as the principles on which we exercise these powers.

President, we actually use two most important principles as the premise: Firstly, is it appropriate to initiate the procedure? Secondly, where does the public interest lie?

Many people said today that when Mr Antony LEUNG was the Financial Secretary, he had to step down to fulfill the pledge of accountability even for such a minor problem of purchasing a car. President, when Mr Antony LEUNG was the Financial Secretary, it was me who proposed the motion of no confidence in him for his purchase of a car ahead of the tax increase. Why did I propose a motion of no confidence in him? Because Mr Antony LEUNG was the highest financial official at the time. It was him who formulated the Budget. The Budget must be kept confidential, and this is a very important public interest. Members of the public and even members of the international community attach great importance to this principle of confidentiality and fairness. Therefore, if a financial official is considered to have possibly made personal gains with the insider information known to him, no matter how insignificant the gains are, that is still a big issue in principle.

We had first proposed that Financial Secretary Antony LEUNG should resign, so that the public would not keep on questioning what exactly he had done but he refused to resign. It was, therefore, incumbent on me to propose a motion of no confidence in him. This motion of no confidence proposed by me was

voted down and shortly after it was negated, something happened and Mr Antony LEUNG eventually resigned. So, we have to tell the public today that if this motion which calls for the invocation of the P&P Ordinance is not passed, we will make every effort to propose a motion of no confidence to call on the Chief Executive to resign. I think that would be a very suitable course of action under the circumstance because a motion of no confidence is actually just an ordinary, non-binding motion under the Rules of Procedure. It is not the case that the relevant official will have to resign after its passage, just that when this Council, being a representative assembly, has put forth a clear and strong view, the relevant official should resign on his own initiative in order to maintain the credibility of the entire government. This is how a motion of no confidence works, and this is the procedure.

President, what is the case with the powers under the P&P Ordinance? When we consider that something is very important but we cannot know the truth and the Administration is unwilling to reveal the truth, and when there is a need to find out the truth in public interest, under such circumstances, we may have to propose that the P&P Ordinance be invoked for us to carry out an investigation. Many cases have been mentioned today and they have given cause for grave concern. Many people are questioning: What exactly is the problem with the Chief Executive? Why did he do such things? Was a transfer of benefits really involved? Concerning what we have heard of, did they occur only rarely as he happened to do something wrong only in those several incidents, or did they actually point to a certain way of living? There are still a host of questions that the public need to sort out. I, therefore, consider an investigation important.

Insofar as an investigation is concerned, I think there is one point which is extremely important. The Independent Review Committee led by Mr Andrew LI has recently made enquiries with the Chief Executive's Office. The reason is that the Chief Executive had said that there were rules governing what he should do and in this connection, the Independent Review Committee asked whether they could have a look at these rules. According to the personal secretary of the Chief Executive, there is no formal record of these internal rules, though they are said to be adopted in July 2007, but what does "adopt" mean? I am utterly shocked that there is no formal record of these adopted rules, which were first applied on 20 April 2001. President, this has aroused great suspicions, and this is even more serious than the other cases, such as the one involving "sunflower chickens". It is because if these rules do not exist in reality and the Chief

Executive, in order to absolve himself from the allegations subsequently made against him, cooked up the story that rules are in place, the problem would be far more serious.

Therefore, President, we think that before making an allegation against a Chief Executive, we should gain an understanding of all the details of the entire issue, rather than hastily taking actions on account of some allegations. Mr Paul TSE has always reminded us that his experience as a lawyer and barrister is far longer than ours. I would like to suggest Mr Paul TSE to try taking up the post of a prosecutor under the Director of Public Prosecutions. This way, he may understand that before an investigation is adequately carried out, if it is considered that a charge can be laid without further looking into the whole case, that would actually be most unfair. Particularly, he mentioned that after an allegation is made and if it is found to be wrong, changes can be made to the allegation until it is deemed appropriate. This, I think, is a major taboo in fair trial.

President, let us look at the impeachment procedure. What does an impeachment procedure seek to do? An impeachment procedure is initiated on the basis that the Chief Executive is charged with serious breach of law or dereliction of duty and refuses to resign. I personally think that the key of this provision is the words "refuses to resign". That is to say, when the Chief Executive has committed an act which constitutes serious breach of law or dereliction of duty and refused to resign, and if there is major public interest consideration, it will be incumbent on the Legislative Council, being the legislature, to initiate this mechanism to resolve a confidence crisis for the SAR. Therefore, I think we must ascertain whether or not such a situation exists now.

President, as regards "serious breach of law", Members may not know what it means, but this should not be difficult. But what is considered "serious dereliction of duty"? Is this a subjective concept? Why is it not defined? President, this provision has, in fact, been studied repeatedly in the Committee on Rules of Procedure, and our view is that its meaning cannot be put down in words, because what may happen is definitely very special and a definition cannot be drawn instantly. We should not just look at the words and see if the so-called loopholes in law can be exploited. Rather, we should, through the past cases, build up precedents one by one, so that people in future can know where the line is drawn in applying this provision. It is particularly because of this

reason that you cannot say, "Right, this is the way, as he has already admitted it", and then handle it in such a way and declare a verdict of guilty, making it just this simple. We must put forward this issue, and we must hold discussions on what constitutes serious breach of law and what constitutes serious dereliction of duty, thereby building up precedents.

President, this is not only for the sake of fairness in the procedures. This also involves other issues. First of all, in case anyone has any misunderstanding, let me say that it does not mean that when 15 Members or one-fourth of all Members of this Council proposed a motion, we can immediately ask the Chief Justice of the Court of Final Appeal to form an independent investigation committee to carry out an investigation. This motion, which is a motion for investigation, has to be passed by the two groups of Members of the Legislative Council according to the usual practice of separate voting before the mechanism of investigation can be initiated. In order to initiate the mechanism of investigation, we will have to ask another authority, namely, the independent Judiciary, to investigate the matter.

Given that this is a matter of enormous import, the Legislative Council, in moving this motion, must present a clear, explicit allegation. Once this allegation is presented, no amendment can be made to it. If it has to be amended, another motion will have to be moved for the purpose. This allegation must be clear, and it must have sufficient gravity. We will consider the allegation in casting our vote.

I have read the allegation presented by Mr Paul TSE. He must have mentioned it in the appendix. What is his allegation? Let me read it out: The Chief Executive, during his office, had committed acts of serious dereliction of duty (which included negotiating with and accepting from the Chairman of the East Pacific Group, WONG Cho-bau, a transfer of interest in respect of his renting of an apartment at East Pacific Garden, Shenzhen), and had failed to make any declaration as appropriate when vetting and approving the application for a digital broadcasting licence from a company in which WONG has major interests.

President, this is not an explicit allegation, because he said "included" which means that if what is said is found to be not substantiated, an investigation can still be carried out into other issues. As regards what other issues will be investigated, this is not stated clearly here. So, President, should we, on the

basis of this allegation, exercise such a great power to immediately impeach the Chief Executive, in order to make the public think that we are doing our work? In exercising these public powers, we should have regard to the public interest, rather than seizing the opportunity to show our own performance.

President, if anyone proposes a motion on impeachment and if it is really passed and an investigation is conducted, the Government will immediately be plunged into an unstable or very unstable condition, or the Chief Executive must immediately have his duties taken over by the Chief Secretary for Administration, Mr Stephen LAM. Will this be very good to Hong Kong? I will leave this to Members to make their own judgment. So, it is not the case that taking this step will cause no consequence. The point is that after a motion on impeachment is proposed, consequences will follow. Therefore, we must weigh the pros and cons. Do we have a clear, explicit allegation? Do we have an adequate and comprehensive understanding of the facts, so that this Council can tell whether or not there is a need to initiate an impeachment procedure? President, only when powers are exercised under such circumstances can the solemnity of the constitutional system be respected. When we hastily initiate this mechanism and proceed to such an important procedure without making everything clear, this is actually weakening the powers of the Legislative Council, because in order to maintain the credibility of the Legislative Council, we must respect the constitutional system in every step we take.

Therefore, President, I do not think that the impeachment mechanism should be initiated now. I would even say that the arguments for activating the impeachment mechanism cannot hold water. What we should do is to first propose that an investigation be carried out to enable all Hong Kong people to clearly understand each and every case and to allow the Chief Executive or the executive authorities sufficient time to give a response, while the public can also have ample opportunities to find out the case has developed in extent and in depth. Then, we can examine in all calmness whether there is a clear allegation for initiating the impeachment procedure, whether things have developed to a state where an allegation is founded but the Chief Executive has still refused to resign, and whether the legislature must definitely exercise this power. We cannot initiate a procedure lightly. In initiating every procedure, we must believe it to be a truly appropriate procedure. Today, the most appropriate procedure is to exercise the powers conferred on us by the P&P Ordinance, in

order to find out what happened in this incident.*(The buzzer sounded)* .....  
Thank you, President.

**DR PRISCILLA LEUNG** (in Cantonese): President, I feel very sad because this Council has to discuss again whether a select committee should be formed to investigate a series of incidents concerning the alleged omission of declaration of interest or acceptance of hospitality by the Chief Executive.

Concerning the whole series of incidents, I think the first reaction of colleagues in this Chamber, all Hong Kong people, especially civil servants, is the disbelief when they first heard of scandals possibly involving the Chief Executive. During the Question and Answer Session inserted into the adjournment debate in this Council on 1 March, I also got the opportunity to ask the Chief Executive a question, hoping that he would have the opportunity to provide more information to us in the next 20 days since then. In that case, this Council would not need to form a select committee to investigate the incidents. So, when Ms Cyd HO proposed the appointment of a select committee at a meeting of the House Committee, I voted against it. As for Mr LEE Wing-tat's suggestion that the Panel on Constitutional Affairs be authorized under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to request relevant information and materials, I voted for it. I voted in a different way on that day because I wished to give some reasonable time to the Chief Executive so that he could provide us with more information by making a good use of these 20 days. But unfortunately, I have not seen any additional information provided by him that can give us a better understanding of the matter in the past 20 days.

This is in fact unfavourable to the Chief Executive. Just take a look at the placards at the back and the public discussion, one will understand the reason. Repeated reports by the media have pointed to a conclusion that the Chief Executive has engaged in corruption and the public have also got such an impression. I consider this a very serious allegation. Hence, from the standpoint of the Legislative Council, I think we should clarify what has happened and this is one of our most important responsibilities. If the whole series of incidents are viewed from an objective perspective, Members may feel very anxious and the public feel astonished. But I think the civil servants must be the one who feel most upset and angry.

In fact, in the past few days, many friends of mine in the Civil Service have told me that they considered it most unfair. Thus, we are duty-bound to ensure that the same yardstick is applied to all civil servants, public servants, high-ranking officials and the Chief Executive under the existing system.

As I said before, civil servants in Hong Kong have been severely criticized for being lack of flexibility, rigid, bureaucratic, lack of awareness of crisis management and reluctant to listen to public opinions in the past decade or so after the reunification. Nevertheless, the public have never questioned the reputation of civil servants for being "whiter than white" for they are really very clean and honest. In this regard, friends in Taiwan and the Mainland, particularly the Mainland officials and prosecution departments, have paid regular visits to Hong Kong in order to learn from us and see how to achieve the claim of "Hong Kong Our Advantage is ICAC". However, a series of incidents in this year, including the use of a government vehicle bearing an "AM" car plate by a high-ranking official of the Department of Justice to pick up his girlfriend as reported by the press that I read in January, has immediately caused a big stir in town, causing the Department of Justice to take remedial action promptly.

In fact, to pick up one's girlfriend with a government vehicle in other places, especially in Taiwan and the Mainland, may not be a big problem. They may query why it has led to such a serious consequence in Hong Kong. Some people also said that many provisions in election-related legislation are excessively stringent. The legislation regulating civil servants is no exception. Precisely because of this, some trivial matters were magnified in the past decades. As a result, civil servants are very nervous about whether they are considered to be clean in the people's eyes.

In my opinion, it is more accurate at this stage to say that the Chief Executive is greedy for small advantages instead of being corrupt. In each incident, small advantages are involved. Among all sorts of allegations such as accepting yacht rides, I personally consider that the most serious one is the renting of a penthouse developed by Mr WONG Cho-bau in the Mainland. And, Mr WONG is a major shareholder of a company which has been granted a digital broadcasting licence. In my opinion, this is relatively substantial because the licence has been granted and commercial interest has already come into existence when the Chief Executive has also rented the penthouse. On the day when the Chief Executive attended the Question and Answer Session, many people thought

that he was not sincere and some even criticized him severely. I personally think that he was sincere and felt very sorry. He has offered an apology to the public and I think he has also done so to colleagues in the Civil Service. I think our views of the civil service system should not be affected by his personal conduct.

However, all are equal before the law. Looking back at the Prevention of Bribery Ordinance after the occurrence of these incidents, we found that, to a certain extent, the Chief Executive enjoys more immunities than his colleagues. I think this will really give rise to a lot of misgivings.

In reply to my question as to why he had not made any declaration, the Chief Executive responded that he had determined by himself that it was not necessary to make any declaration as everybody knew that Mr WONG Cho-bau, Mr Albert CHENG, Mr Ronald ARCULLI and he were very good friends. I believe any reasonable third party will consider his judgment unreasonable and unacceptable. In fact, there is no problem even though they are acquaintances. On the contrary, it would have been much better if a declaration of interest had been made. Probably, he should avoid making any comments to avoid any possible conflict of interest just like what Mr Timothy TONG, the ICAC Commissioner, has done. Mr TONG stated in a newspaper that he was also acquainted with Mr WONG Cho-bau and indicated openly that he would avoid dealing with relevant matters to avoid possible conflict of interest.

In my opinion, to avoid handling any matter which may give rise to conflict of interest is the correct approach. In the Congo case, a Judge of the Court of Final Appeal took the initiative to withdraw from the hearings not because he has any financial interest in Congo, but because one of the Judges of the Court of Appeal dealing with the case is his wife. So, he took the initiative to withdraw from the hearings. In fact, a person will certainly be involved in various relationships in his decades-long lifetime from schooling in primary school, secondary school and university to work. It is impossible that a person could avoid developing relationship with the others. However, when he realizes that there may be suspicions, he should take the initiative to avoid possible conflict of interest. Therefore, if the Chief Executive and Mr WONG Cho-bau as well as the others are acquainted with each other, the Chief Executive should all the more pre-empt suspicions in the granting of the digital broadcasting licence. In doing so, he can uphold his reputation and the truth can speak for itself.

Just now, Mr Paul TSE lobbied us to initiate a motion of impeachment in accordance with Article 73(9) of the Basic Law. The Legislative Council is conferred the power to do so under Article 73(9) of the Basic Law. But I think we should be very cautious in deciding when this power be exercised because the provision states that "charges the Chief Executive with serious breach of law". I think we should prove that these incidents are facts rather than suspicions before the Chief Executive can be charged with "serious breach of law". As for "dereliction of duty", it is necessary to spell out the criteria. As a member of the Committee on Rules of Procedure, I think a clear definition is required.

Under most circumstances, the media and politics are like a blaze. As I said earlier, the media has in fact passed a judgment. If the Chief Executive is given an opportunity to come here again to provide further information, the public may find that what they have got is an impression rather than a fact. To put it simply, as I mentioned just now, he has rented a penthouse in the Mainland and revealed that the rent payable is around \$80,000 monthly. But what kind of tenancy agreement is that? Is it a tenancy agreement signed between the tenant and landlord through an intermediary or property agent in the market? If he can provide such information, the possibility of backroom deals having been made may be slightly reduced. Whenever such things are disclosed, we feel pained as if we were stabbed by a needle or a knife. However, to request information under the P&P Ordinance will be a much better approach as we can find out the truth and get to the bottom of the matter.

Mr Paul TSE said that the matter would be procrastinated or left to vanish into obscurity if such an approach is adopted. I beg to differ. In consideration of procedural justice, we always need to have concrete evidence, apart from giving the Chief Executive a reasonable opportunity to be heard and a reasonable time frame to put up a reasonable defence, instead of initiating an impeachment hastily as we are doing now. In fact, to propose a discussion on the matter itself is a major political gesture.

I have currently participated in two select committees responsible for inquiring into incidents involving Lehman Brothers and the West Kowloon Cultural District (WKCD). As I said the other day, given that a select committee on the WKCD has been appointed, if a select committee is appointed to inquire into the hearsay concerning the omission of declaration of interest and acceptance of hospitality by the Chief Executive, the yardstick should be the same. Therefore, I am inclined to agreeing to Mr LEE Wing-tat's motion

because it will be more efficient in terms of time and implementation. We do not have to go through a complicated process in the House Committee, including holding discussions and selection of the chairman of the select committee before coming back to discussions again. Members who have been engaged in the work of a select committee will know that it is very cumbersome.

So, if the Panel on Constitutional Affairs is authorized to conduct an inquiry, it can, first of all, request information by the Chief Executive as a gesture of respect to him. If he does not co-operate, we can invoke the P&P Ordinance. Thus, we have shown respect to him on the one hand and given him an opportunity to provide information on the other. If our request is not entertained, we can invoke the P&P Ordinance. Therefore, I supported the original motion of Mr LEE Wing-tat in the House Committee.

Ms Cyd HO requests the appointment of a select committee by invoking the P&P Ordinance. The contents of her amendment are similar, but the procedure will be much more complicated. But today, I will not oppose the appointment of a select committee because the Chief Executive has not provided any updated information in the past 20 days and I consider it really necessary to provide more information to the public. Nevertheless, I all the more support that an inquiry or investigation be conducted through the Panel on Constitutional Affairs first in order to request the production of information we deem relevant by exercising the powers conferred by the P&P Ordinance.

We are very sad after learning all these incidents. I feel that each and every one of us is most upset. I hope that when it is found that all the allegations do not hold water after inquiry, we will be more jubilant.

My good friend, Dr David LEE, once told me that in an article written by him recently, he has pointed out that while it is difficult to be the Chief Executive, it is more difficult to be a monk. But I think the reverse is true: While it is difficult to be a monk, it is more difficult to be the Chief Executive because the Chief Executive enjoys enormous powers vested in his hands and faces a lot of temptations while the public have high expectations of the Chief Executive in present-day Hong Kong. I would like to tender this piece of advice to the incumbent Chief Executive as well as those who will be the Chief Executive in the future.

President, I so submit.

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

**MR PAUL CHAN** (in Cantonese): President, my first reaction to the press disclosure of acceptance of undue hospitality by Mr Donald TSANG, the Chief Executive, was astonishment. I also found it unbelievable because Mr TSANG, as the Chief Executive of the Hong Kong Special Administrative Region (SAR), has 37 years of experience in the Civil Service and Hong Kong society has been proud of its probity. The occurrence of the "hospitality-gate" incident as described by the media is unbelievable to me indeed.

After the revelation of the "hospitality-gate" incident by the media, colleagues in this Council have proposed that the incident be investigated by the Legislative Council in accordance with the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). I have pondered upon it for a long time and consulted the views of my friends inside and outside the sector to which I belong. Many of them think that the P&P Ordinance should not be invoked to conduct an investigation on the grounds as follows:

First, according to the track record of Chief Executive Donald TSANG whom they have known and contacted, they believe he is just greedy for small advantages by accepting the hospitality rather than giving favoritism to anyone or being partial in dealing with matters.

Second, Chief Executive Donald TSANG is a very diligent person of fighting spirit. He has made a lot of contribution to Hong Kong during his tenure as a civil servant or Chief Executive. As his defects should not obscure his virtues, the "hospitality-gate" incident is only a small flaw in his public service career which is too trivial to warrant a public trial.

Third, Chief Executive Donald TSANG offered a public apology to the people of Hong Kong when attending a Question and Answer Session in the Legislative Council earlier this month. This is not easy for an arrogant and opinionated person to do so and many people have accepted his apology. Moreover, as there are just a few months to go before his term expires, we should not embarrass him.

Fourth, as the Chief Executive is the leader of the SAR, it is not appropriate to summon him to the Legislative Council for investigation.

Fifth, as the Independent Commission Against Corruption (ICAC) has initiated an investigation into the "hospitality-gate" incident, no additional investigation by the Legislative Council is required so as to avoid wasting of resources. Moreover, an investigation by the Legislative Council will not be as professional as that of the ICAC and such an investigation may even affect the ICAC investigation.

Sixth, in this election year, people with ulterior motives are "playing around with scandals" ..... I am sorry, I should say "playing around with him". The Prevention of Bribery Ordinance does not apply to the Chief Executive. The Code for Officials under the Political Appointment System (the Code) issued by the Chief Executive's Office (CEO) does not apply to him either. As no explicit regulation has been drawn up, it is difficult to prove that he has committed any offence even if an investigation is conducted. To initiate such an investigation is only a "political show" which will ultimately be in vain. It is Hong Kong people, rather than the Chief Executive, who will be embarrassed.

President, I agree that the Chief Executive has rendered great service to Hong Kong, apart from making considerable contribution. However, as Legislative Council Members and overseers of the executive authorities, we should take into account discretion, justification and legislation rather than discretion alone in considering this problem or dealing with issues related to public service. Although the Chief Executive has given an account and explanation to the public and this Council since the exposure of the "hospitality-gate" incident by the media, yet the sequence of events, some key aspects and possible impact remain unclear. If we let it go lightly, will it cause any adverse impact on Hong Kong in future?

I have pondered upon it for a long time and studied the Code for politically appointed officials issued by the CEO. I found the "hospitality-gate" incident inconceivable after reading the Code. Let me quote some parts of the Code to explain my way of thinking.

Chapter 5 of the Code is about prevention of conflict of interest. Let me quote paragraph 5.1: "Politically appointed officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest."

I then quote paragraph 5.3: "Politically appointed officials shall refrain from handling cases with actual or potential conflict of interest." I would like to add one point to this paragraph. I think the requirement stipulated in this paragraph is not stringent enough and the Code should be amended by adding the wordings as follows in future. Apart from being cautious in handling cases with actual conflict or potential conflict of interest, "the officials should also be cautious in handling cases when there is any perceived conflict of interest."

President, let me quote paragraph 5.4 of the Chapter: "Politically appointed officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties."

Let me cite paragraph 5.9 as follows: "As a general rule, politically appointed officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgement or place them under an improper obligation. Although the acceptance of hospitality or free service is not prohibited, politically appointed officials shall take note of the relevant provisions in law and the following before accepting any such offer:

- (a) whether the acceptance of the hospitality or free service will lead to a conflict of interest with their official duties or place them in a position of obligation to the donor;
- (b) whether the acceptance of the hospitality or free service will lead to embarrassment in the discharge of their functions; and
- (c) whether the acceptance of the hospitality or free service will bring them or the public service into disrepute."

Paragraph 5.10 of the Chapter also states that "A politically appointed official shall not accept entertainment from any person if the entertainment is

likely, for example by reason of its excessive nature, or of the relationship between the official and the other person, or of the character of that person:

- (a) to lead to embarrassment of the politically appointed official in the discharge of his functions; or
- (b) to bring the politically appointed official or the public service into disrepute."

President, these requirements are very clear without any ambiguity. Are they excessive? Are they reasonable? I believe we all agree that these are the public's reasonable expectations of high-ranking officials.

President, let me quote paragraph 1.4 of Chapter 1 of the Code which states at the outset that "This Code does not specify every type of potential act or behaviour expected of politically appointed officials. Rather, it provides rules and principles for appropriate conduct under certain circumstances. Where the circumstances are not prescribed, it is the responsibility of politically appointed officials to judge in accordance with the principles set out in this Code, how best to act in order to uphold the highest standards."

Paragraph 1.3(2) of Chapter 1 states that "Politically appointed officials shall uphold the rule of law, abide by the law, and protect the integrity of public office.". Paragraph 1.3(5) states that "Politically appointed officials shall observe the highest standards of personal conduct and integrity at all times.". Paragraph 1.3(6) then says that "Politically appointed officials shall ensure that no actual or potential conflict arises between their public duties and their private interests."

Frankly speaking, President, when studying the Code in detail, I really do not understand how the "hospitality-gate" incident could have happened. Although the Chief Executive has attended the Question and Answer Session of the Legislative Council, there are details of the incident which remain unclear. Even if we understand that the Chief Executive is not required to observe similar codes, I believe the general public will naturally consider it reasonable that the Chief Executive should at least observe rules which are on par with the Code that

I have just quoted. Therefore, if we do not get to the truth, we will be unable to tell right from wrong.

Many colleagues have cited some cases concerning alleged breach of regulations by some civil servants which were similarly exposed by the press. Although such cases were minor in comparison, the civil servants concerned were subjected to sanctions in law and in some cases, the penalty was quite harsh. In contrast, if we lightly refrain from finding out how the "hospitality-gate" incident happened, what are the impacts on the Civil Service, the public, as well as the clean reputation of Hong Kong?

Besides, although there are views that the Chief Executive, as the executive head of the SAR, should not be summoned to the Legislative Council lightly, this "hospitality-gate" incident has indeed caused far-reaching repercussions and queries. Given that there are lots of objective facts and the serious nature of the allegation, the Legislative Council is obliged to follow up. Hong Kong is a society which upholds the rule of law and adheres to the principle that all are equal before the law. The notion that "punishments are not for nobles" should not be allowed in Hong Kong.

There are also views that the ICAC has initiated an investigation into the "hospitality-gate" incident. However, as some Members mentioned just now, given that the investigation by the ICAC is criminal in nature, the burden of proof is very high and the scope of investigation is also limited. On the other hand, the purpose of an investigation initiated by the Legislative Council on powers under the P&P Ordinance is not to pursue any criminal liabilities, regardless of the results. Rather, its purpose is to find out the truth as far as possible through this mechanism from the perspective of fact-finding in order to give an account to the public and society. To say the least, if Chief Executive Donald TSANG, as he told the Legislative Council in the Question and Answer Session, has scrupulously observed the rules although the standards of these rules fall short of public expectations on the integrity of the Chief Executive, and acted in a fair, equitable and impartial manner, then the investigation can clear his name.

President, I so submit.

**DR PAN PEY-CHYOU** (in Cantonese): President, first of all, I would like to point out that I am not familiar with Chief Executive Donald TSANG and I cannot be regarded as his friend. After the incident concerning acceptance of hospitality by the Chief Executive, I have listened to the views of some friends around me. Many of them consider that the Chief Executive should be subject to investigation because his acts will bring a negative impact on Hong Kong society. But some of them queried whether a precedent has been set under which the Chief Executive or any prospective Chief Executive will be subject to investigation by this Council in accordance with the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). The chance of avoiding such an investigation is perhaps slim.

We should adopt a relatively calm attitude in looking at the issue. The first question comes to my mind is: What kind of a place is Hong Kong? What are the conditions of Hong Kong's success? As we all know, Hong Kong enjoys judicial independence. And we know from one generation to another that the rule of law prevails in Hong Kong. We know that we should not and cannot do anything which is explicitly prohibited by law or else it will be an offence open to punishment. Our law-abiding spirit also tells us that an act is not an offence if it is not prohibited expressly by law. Basically, a person will not be subject to legal sanction or conviction by the judicial system if his act is not expressly prohibited by law. I believe this point is most crucial to us. Our legal system has laid down the basic guidelines for our acts and no violation of these guidelines is allowed. Conversely, we will feel at ease for we will not be convicted for no reason if we have not violated the standard in law.

In our society, there are different organizations and systems as well as the establishment. Take the Civil Service or the Hospital Authority where I work as an example. Rules and codes of conduct have been laid down by each and every large organization. These rules and codes of conduct, which have clearly stipulated what should be observed, are tantamount to legislation of the organization or institution concerned. If there is no provision concerning certain situation, it means that members of the organization or institution are given a certain degree of freedom to make reasonable judgment. I believe it is well-known that Legislative Council Members are also required to observe some code of conduct. We feel at ease by adhering to the code because we know that in doing so we will not be accused of violating any rule and subject to penalty for

no reason. Conversely, if the code is violated, we will be subject to due penalty and treatment.

This is the cornerstone of the success of Hong Kong society, that is, the law-abiding spirit or the spirit of contract, under which we have to comply with or abide by provisions explicitly laid down in law or any code of conduct. Conversely, we know that we will not be convicted in court simply because of public sentiment if there is no express provision prohibiting our acts. By the same token, a member of an organization or institution should not be considered as being in breach of its code of conduct simply because other members indicate their dislike of certain acts which are not expressly prohibited by the code. Why do we like to live in Hong Kong? Because we know that Hong Kong is a place where laws have been enacted for our compliance. Otherwise, what kind of a world will it be?

When I was a teenager, I read a short novel called *The Trial* written by an existentialist, Franz KAFKA. I was shocked after reading it. The protagonist of the novel, Josef K., was a very successful administrator. One day he was arrested for no reason when he had woken up. He was told that he had committed a crime and was taken to court for trial. At the trial, he saw the judge talking with his advocate, but he did not know what they were talking about. Nor did he know of what crime he was being charged. One day, after an ambiguous and tedious trial, he was taken away by two people who looked like clowns for execution. He was executed. This is an existentialist novel which is most shocking because it tells us that if we live in a lawless society, we will be told at any time that we have committed a crime although it was not a crime before. And this society is a very terrible one. Perhaps we may say that it is only fiction and KAFKA might be insane. He was suspected of insanity indeed.

Let us take a look at the real world. Here are two examples which happened in the 20th century. One of these examples occurred in the United States. We have heard of McCarthyism. McCarthy, a United States Senator, suddenly claimed that all strata and sectors in American society had been penetrated by communists. As a result, arrest actions targeting at communists were launched. Some celebrities in society such as writers, scientists, artists, actors and directors were labelled as communists for no reason and arrested. They were tortured and some were even tortured to death in this era of madness. Members may think that the United States is very far away from us. Then let

me quote an example which is closer to home. In the 1960s or 1970s, the Cultural Revolution occurred in the Mainland. Many of our relatives, friends and elders were tortured for no reason in this disaster. Many ordinary people, who were not saints and occasionally spoke foul language or lost their temper to their subordinates, were pinned "tall hats" during the Cultural Revolution on the grounds that they were reactionaries leading a corrupt life. I do not know the meaning of these names. Nonetheless, they were persecuted.

Therefore, I think we should be very cautious in upholding the core values of our society. We should respect the rule of law and the provisions in our laws. As individuals, we have to comply with legal provisions and the codes of conduct of the organizations or institutions to which we belong. But on the other hand, we should also respect the acts of those people who are not convicted or confirmed as having breached the codes. Even though their acts are not perfectly clean or even make us feel disgusting, we still have to respect their rights and freedoms.

In the incident concerning the acceptance of hospitality by the Chief Executive, an organization has reported it to the Independent Commission Against Corruption (ICAC). I consider this most appropriate. The ICAC is a very important law-enforcement agency which has won the confidence of the people. I consider it necessary for the ICAC to conduct an investigation into the incident in order to determine whether any criminality or unlawful acts are involved. And we will definitely support it. Besides, we have to look at the situation of the Chief Executive from a historical perspective. When Chief Executive Donald TSANG took office in 2005, there was no legislation regulating the Chief Executive's behaviour. He then took the initiative to amend the relevant provisions of the Prevention of Bribery Ordinance to make them applicable to the duties of the Chief Executive, including himself. I consider this a very good starting point.

But recently, we have seen the disclosure of a series of incidents concerning the acceptance of hospitality by the Chief Executive. And public opinions are in fact very clear and consistent. According to information we have got, we can see that the general public in Hong Kong, including the Civil Service, consider that it is not appropriate or proper for the Chief Executive to accept such hospitality. It is because those who offer him hospitality are influential people, including rich tycoons or people who can control the media. If the Chief

Executive has accepted their hospitality, the public will feel that the Chief Executive, after such acceptance of hospitality, may no longer be able to maintain a neutral and impartial position in front of various strata of society. In other words, he will tilt towards certain groups of people in the performance of his duties.

Therefore, in our opinion, if the Chief Executive has engaged in these acts, the public will have the right to know. Why should the public have the right to know? This is not for the sake of curiosity or gossip. Rather, the public have reasons to know. Hong Kong takes pride in its probity in society and understands what can maintain its probity. Basically there are two things: First, the rule of law or the law-abiding spirit that I mentioned just now; and second, the transparency of our society.

Recently, a celebrity has cited a metaphor in which the Chief Executive is likened a variegated carp. We all know that Chief Executive Donald TSANG is also fond of keeping variegated carps. The meaning of the metaphor is that variegated carps, regardless of whether they are kept in an aquarium or fish pond, are always being watched. Precisely because of such transparency, a clean system can be maintained in our society. Turbidity will breed corruption.

Second, after the public have learnt of these incidents, they can hold discussions and forge a consensus so that a standard will be laid down, thereby telling the whole society and prospective Chief Executives whether the Chief Executive's code of conduct should be brought on par with that of civil servants or politically appointed officials as Paul CHAN said earlier, or a separate standard is required for the Chief Executive. If a separate standard is required, how should it be defined? In my opinion, public participation and discussion will be a good thing.

To date, I think what the Chief Executive has done will really give the public a negative impression. But in my personal view, such incidents cannot substantiate any charge or bring him to a public trial. Nevertheless, I also hope that he can provide more information because, so far the people still cannot get a full picture of some critical and crucial points even though the CEO has revealed details of many incidents. Clarification is still required for some matters such as the penthouse in Shenzhen. Has he made any efforts to assess its rental value?

Therefore, at this stage, the Hong Kong Federation of Trade Unions maintains a neutral attitude towards exercising the powers under the P&P Ordinance. But we hope that the Chief Executive will take the initiative to disclose more information as this will be in the interest of the Chief Executive himself as well as society.

I so submit.

**MS EMILY LAU** (in Cantonese): President, Dr PAN Pey-chyou indicated that the FTU was taking a neutral stance on Mr LEE Wing-tat's motion. President, you and I have been in politics for years to understand very well the possible existence of "neutrality". But I would often tell the students when I visited their schools — as there are many students sitting in the gallery — that most of those who took a neutral stance are dead. It is because every person has his or her own stance, and the only difference is that we sometimes do not want to reveal it.

As a Legislative Council Member, he has to cast his vote. What does he mean by "neutral"? He can simply abstain and abstention is tantamount to not stating a definite position. I have also told members within the Democratic Party that I did not like abstention because it would give the public an impression that we were being indistinct and hazy. Once a stance is stated, there are always some people who will be glad while some others will feel offended in whatever circumstances. Be it in politics or in getting along with people, we have to understand that it is difficult to please everybody. If we can hold ourselves accountable to society, there is nothing wrong even though we have not met expectations in some aspects. I urge Members of the FTU and Members who dare not come in for the debate or remain quietly in their seats to listen carefully.

Dr PAN Pey-chyou has indeed made a very good speech. He mentioned at the beginning of his speech that we had to investigate the Chief Executive and his yacht rides. Does the Legislative Council have to investigate everybody? Do we have all the time we need especially when our term of office will expire by mid-July? Therefore, there must be a reason for the Legislative Council to indicate a need to conduct an investigation.

Certainly, even if an investigation is needed, we still require the support of a majority of Members returned from direct elections and a majority of Members

returned from coterie elections before the motion can be passed. Therefore, Mr LEE Wing-tat knows that his motion stands little chance of being passed. We are the minority here, but we are the majority outside this Council. President, do you know why we are the majority on this issue? As you may be aware, most of the public, especially the civil servants, are extremely angry at Donald TSANG. I have learnt from the press that there will be a panel meeting next week — I learnt it from the press because I am not a member of the panel — wherein many civil servants have lined up for voicing their anger. Why do they line up to voice their anger? It is because Donald TSANG has used a code of conduct with nothing written on it to regulate himself. Judging from the scale of regulation announced verbally, it is different from those regulating civil servants. The scale is much looser. If a civil servant or accountability official applies for Donald TSANG's permission to accept certain hospitality, the application may probably be denied. But according to his loose self-regulatory scale, he can allow himself to accept hospitality.

Why have the public been so furious? In mid-February, on the first day when the incident was exposed, the correspondents were looking for him. It was 22 February ..... I thank the Secretary for providing this document to us. President, I have to tell you one thing. When the Secretary said earlier that he had provided this document to us, we still had not received it. So, I immediately wrote a note asking the Secretary General sitting beside you about this. It was the staff who found it out at once. This is the way the Secretary handles things. He did not table the document for Members' reference even though he had to attend the debate. He only said that the document was given to us the day before. The fact is that we have not received the document. Anyway, I have to thank him because the information he provided to us is quite comprehensive.

According to the information provided by the Secretary, when the Chief Executive was for the first time questioned by the media on 22 February, he indicated that during his 40-odd years of service in the Government, he had been working according to the rules. At that time, nobody knew that the so-called rules were nothing but a "divine book without words". He did not reveal a little bit about it until 1 March when he came before this Council. When subsequently asked by Mr Andrew LI, the former Chief Justice of the Court of Final Appeal, he admitted that there was no written record. You can see how hesitant he was in his speech. He also said something outrageous. Some citizens said directly to me that they were so angry that they simply wanted to

smash the radio. What did the media report about his remarks? The Chief Executive said, to this effect, "You — meaning the media — should not base everything on conspiracy theory or make any analysis from a negative perspective. The things that happened recently has cut me to the heart indeed. If you keep on stirring like this, internal conflicts in Hong Kong will be intensified. We will never be able to focus our attention on dealing effectively with various economic issues and the problem of aging population, resulting in an immense waste of manpower and resources."

President, upon hearing those remarks of his, I thought everyone else was lying. He mentioned the conspiracy theory or negative perspective. A few days later, all things were unexpectedly uncovered ..... most but not all were uncovered. Anyway, it is true. Therefore, his remarks were outrageous.

Then on 26 February, the Chief Executive announced the setting up of an Independent Review Committee to be chaired by the former Chief Justice of the Court of Final Appeal, Mr Andrew LI. But it was set up not to investigate himself — we would be glad to patiently wait for the investigation by Mr Andrew LI if the committee was set up to investigate the Chief Executive — but to study ways to regulate officials in the future. As a result, the people concerned were very angry, thinking that the Chief Executive was outrageous. They thought that he was dragging people down with him. Instead of straightening things out, he preferred to examine future methods of regulation.

We, the Democratic Party, went up to the Independent Commission Against Corruption (ICAC) together with some other people to lodge our complaint against him. When the ICAC started an investigation, he said he would give full co-operation — I said he had better not co-operate. In their speeches, many Members have mentioned that the incident involves not only criminal jurisdiction of the ICAC or the question of how to draw up some codes of conduct to regulate the Chief Executive, the principal officials and the civil servants — that is, the "optimization" of system frequently referred to by the authorities — it also involves the investigation into the integrity and conduct of the Chief Executive.

In this regard, a reasonable person would tend to think that the Legislative Council is able to take up this role. Although it will not be perfect, the

Legislative Council can take care of it in many aspects. What do you think the authorities have responded? The authorities said no. The Chief Executive said that he would co-operate with the ICAC investigation. As for the Independent Review Committee chaired by Mr Andrew LI, the Chief Executive said that he would co-operate with it. But he has revealed nothing to the Committee. To our dismay, the rule indicated by the Chief Executive is not in written form at all. We really have no idea how the investigation should be conducted. Do we have to summon him to give testimony? Even if we have to, it is not feasible if it is carried out by this Council.

Today, I believe the fate of Mr LEE Wing-tat is much clearer than Sunday's Chief Executive Election result. According to a news report I just read, the chance of an abortive election is becoming higher and the 1 200 Election Committee members have been urged not to leave the Hong Kong Convention and Exhibition Centre or its confines. You can imagine the uncertainty of the situation. President, you might have heard many stories during lunchtime. Some of them are called the stories of "detention". Anyway, we are not going to discuss what would happen on Sunday. Mr CHIM Pui-chung said he would propose a motion for debate in future. Mr LEE Wing-tat's motion will fail, but does failing really mean that we cannot win?

On 21 February, I interviewed CHING Cheong on my Internet television programme. He is well-versed in the situation on the Mainland. I discussed Hong Kong's Chief Executive Election with him in the Internet television programme. At that time, we all knew that there was a big cavity in the ground beneath the house of candidate Henry TANG. CHING Cheong indicated to me that the people of Hong Kong did not understand the culture of Mainland China — what is the big deal for having a cavity in the ground beneath his own house? Why is it a problem as the cavity is right beneath his house rather than lying under someone else's property? President, I am the Vice-chairperson of China Human Rights Lawyers Concern Group. You and I know very well that there are many victims whose houses and lands have been taken away. Their grievances have never been entertained. In the eyes of the Mainland officials, what is the problem with having a cavity, whether it is 300 sq ft or even 3 000 sq ft in size, beneath one's own house? Do you know what CHING Cheong told me in the programme? If I remember his wordings correctly — I hope I have not recalled them erroneously — he said Henry TANG would definitely win because the Mainland authorities would ignore these things.

Will he win? Honestly speaking, I have no idea. Will it turn out to be an abortive election? Nobody knows. But when we try to compare things happening in Mainland China with the developments in Hong Kong, can we say that they will never change? The *Financial Times* reported today that Chinese Premier WEN Jiabao had mentioned whether it was necessary to seek an official reassessment of the 4 June incident. Therefore, our full effort in Hong Kong in seeking an official reassessment of the incident is not like what Chris PATTEN used to say, that we were "bumping our heads against the wall". Our efforts are not in vain. Even some media in the Mainland have begun eyeing on Hong Kong's development in various aspects. Certainly, this utterly disgusting coterie election has also attracted much attention. The media in the Mainland are also very concerned about how the Legislative Council will handle the issue with the Chief Executive.

The Secretary was attacked by Members when he talked about the core values of Hong Kong just now. Members criticized that officials had not defended the core values of Hong Kong and this criticism is absolutely correct because officials have not made efforts in this regard. President, I skipped the meeting this morning for I went to the Complaints Against Police Office to lodge a complaint against the arrest of a number of protesters last year. Precisely this is because we are worried that the authorities do not defend our core values. Therefore, Mr LEE Wing-tat has proposed this motion for our debate. Now, no one demands that the Chief Executive be convicted, as Dr PAN Pey-chyou said. Rather, we simply request the appointment of a select committee to conduct an investigation.

Committees set up by this Council for conducting investigations have maintained good track records. Comprising members from various parties and groupings, most of these committee meetings are held in public unless committee reports are discussed in closed meetings. Therefore, the Legislative Council has earned its credibility. Some people in the Mainland are surprised that we are going to investigate the Chief Executive. Why not, I ask? However, Mr LEE Wing-tat, we cannot do so today although we can one day. President, if you want to be the Chief Executive, you have to be cautious in your conduct or else you will be invited to this Council ..... not to be scolded but to be investigated.

I believe when we defend this system, millions, or tens of millions, or even hundreds of millions of our compatriots who are unable to cross the border are

watching what is happening in Hong Kong. To their surprise, it is not true that money talks in such a small city as Hong Kong with a small population, as some people claimed. These people also said that we should befriend or develop ties with the rich and powerful. What is the problem with having a cavity under one's residence? Why are Hong Kong people so obstinate? I believe these things ..... a human rights lawyer whom I know once told me that if Hong Kong could defend its present system, especially the system concerning the rule of law, freedom, equality before the law; if the 700 million-odd people in Hong Kong can defend the right to free expression, some recent incidents would not have occurred. These include the worry about dismissal of some academics in the universities, the issuance of a letter to a university president suggesting the dismissal of a person and the publication of articles by an official of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG) to request enactment of legislation regulating the public opinion polls conducted by universities.

President, the official of the LOCPG has actually interfered with "one country, two systems" in making those remarks. Why do the Mainland officials take the trouble to interfere with the opinion polls conducted by The University of Hong Kong and non-government organizations? In the coming Chief Executive Election of the SAR, the Chief Executive will eventually be appointed by the Central Government. But why were officials of the LOCPG going all out to lobby for votes, thus resulting in the "detention" of some voters yesterday? Yesterday when the Democratic Party launched a protest outside the LOCPG, we saw movie director NG See-yuen going into it. He was very frightened when being bombarded with questions by the media. All those who had seen him said that the LOCPG had canvassed votes from him. On what ground should the LOCPG exercise interference? Therefore, some people wonder whether "one country, two systems" is already dead. State Councillor LIU Yandong, who is responsible for Hong Kong affairs, has gone to Shenzhen and summoned some people for a good dressing down. Some friends in the business sector directly told me that they had got a good dressing down. They told me that if someone was elected, "one country, two systems" would be finished, there and then.

We in the democratic camp have our own principles and our dignity. We will not engage in any deal as some Members suggested. What we have to do now is to uphold our system so that Hong Kong people and Mainland compatriots will know that all are equal before the law regardless of our status. If Members

think that it is necessary, we should be united and the Legislative Council can conduct an investigation. I support Mr LEE Wing-tat's motion and Ms Cyd HO's amendment.

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

**MS MIRIAM LAU** (in Cantonese): President, the impartiality and integrity of the Government is a core value very much treasured by Hong Kong people and also a fine tradition that we must strive to uphold. Unfortunately, in recent days, a series of scandals relating to Chief Executive Donald TSANG, dubbed the "hospitality-gate" or the "advantage-gate", has seriously impacted on the culture of integrity that we have taken pains to establish over the decades and seriously undermined the credibility of the SAR Government. As a result, many people, including me, are very much saddened by this.

Article 47 of the Basic Law stipulates that the Chief Executive must be a person of integrity, dedicated to his or her duties. However, the Chief Executive himself also admitted that during his term, he has accepted hospitality from individuals on at least four occasions, including travelling in private yachts and on two occasions, travelling in private jets, and even renting a luxury property from a tycoon in advance for his retirement. Recently, he was also exposed to have accepted the hospitality offered by a luxury hotel in Macao, and so on.

However, if we look at the laws of Hong Kong, government internal regulations, the legislation or statutory regulations, we will find that the acceptance of hospitality by the Chief Executive is not regulated and herein lies the unfairness. If we look at civil servants instead of the Chief Executive, we will find that they are bound by many laws and statutory regulations, including section 3 of the Prevention of Bribery Ordinance (PBO), which provides that any public servant or public officer who, without the permission of the Chief Executive, accepts any advantage shall be guilty of an offence. In the Civil Service Code and the notice on acceptance of advantages by civil servants, there are clear stipulations even on such happy events of civil servants as marriage, birthday or wedding anniversaries and it is stipulated that the value of gifts from friends and relatives cannot exceed \$3,000, and \$500 for gifts in general.

Just now, Mr Paul CHAN read out in great detail the Code regulating officials under the political appointment system and it is spelt out clearly therein that officials on political appointment must also comply with many regulations on the acceptance of advantages or hospitality. I am not going to read out all of them but will only read out two sections, as I think it is necessary for us to revisit them: "Politically appointed officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest.". This is clause 5.1 of the Code for Officials under the Political Appointment System. Clause 5.9 in Chapter 5 also states that "As a general rule, politically appointed officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgment or place them under an improper obligation.". The relevant requirements are very clear. If the acceptance of hospitality by accountability officials may lead to the misunderstanding that they would show favouritism, they should not accept such hospitality.

However, the Chief Executive is not bound by section 3 of the PBO and the clauses of the Civil Service Code or the Code for Officials under the Political Appointment System. The Chief Executive enjoys a special constitutional status, so he is in a supreme position. However, we think that although he enjoys a supreme status, we also have expectations for him. Even though he is not subject to any regulation, he should still adopt those standards and uphold standards that are even higher than those for civil servants and accountability officials. He should be whiter than white. However, it seems we cannot see the Chief Executive do so.

The Chief Executive has accepted some hospitalities. He said that he had set rules for himself, but no matter how he talked about this, we could not see any rules set down in black and white. There is not even any formal record, so some people have described this situation as "a divine book without words". Even if the Chief Executive had his own rules in this regard and even if he were whiter than white, he has not let people see this natural and necessary condition, instead, he has given the public the impression that the Chief Executive is completely above the law.

The Chief Executive said that he had acted according to his conscience and the rules, and that he had paid fares according to market rates. However, are these so-called market-rate fares paid by him after his rides in the jets and yachts

of his friends commensurate with the services enjoyed by him? This is queried by a wide cross-section of the community. For example, if you get a lift in a Rolls Royce, is it enough to pay a fare equivalent to bus fare as proof that you have not accepted any advantage, or to prevent such conduct from giving the impression of a transfer of benefits? It seems the answer is in the negative. The public have also said clear and loud that they do not accept such an explanation.

In addition, on the question of whether or not the Chief Executive has paid for the entertainment, food and accommodation on various trips, although the Chief Executive said that he had, it seems hardly any account has been given, so the suspicion of wrongdoings is still lingering and cannot be dispelled. We find it unacceptable that there is no regulation on the Chief Executive and that the standards set by the Chief Executive for himself are obviously not as stringent as those for civil servants or accountability officials. Therefore, first of all, remedial measures must be taken as soon as possible in this regard. Of course, we do not know if the Independent Review Committee headed by the former Chief Justice of the Court of Final Appeal, Mr Andrew LI, would make recommendations on this issue but I think the Legislative Council must also hold discussions on this issue as soon as possible to examine if it is necessary to tighten up the rules, regulations and legislation in this regard at an early date. Even though the Chief Executive enjoys a supreme status, he cannot receive extraordinary treatment. He must be subject to checks and balances. We cannot rely solely on the personal declaration of the Chief Executive to observe self-restraint, self-discipline and probity. We can see all too clearly what kind of situation would arise if there are no checks and balances or statutory regulation and legal provisions and if he is above the law. We believe that such a situation is unacceptable, so the Legislative Council should deal with the issues in this regard as soon as possible.

Although the Chief Executive is not regulated by the aforementioned pieces of legislation, he is actually regulated by sections 4, 5 and 10 of the PBO. Apart from the rides in yachts and jets, which I mentioned earlier on, the Chief Executive also rented a luxury property in Shenzhen from a tycoon. The press already questioned at an early stage that his pension amounting to \$80,000 monthly would practically be insufficient for the rent. Moreover, the landlord also bundled plush decoration and such installations as a rooftop glass house and a Jacuzzi worth a total of \$3 million with the package, and the cost of decoration

is equivalent to more than three years of rent. Naturally, the public would question if this rental arrangement is a normal one. Is there any transfer of benefits and is there any unusual underlying reason for this? The queries of the public are only natural because the figures set before us are not at all reasonable, so further investigation is necessary.

In particular, the landlord of the Chief Executive, Mr WONG Cho-bao, is a major shareholder of the Digital Broadcasting Corporation Hong Kong Limited. We have no idea if the Chief Executive had declared his relationship with his landlord when the Executive Council considered the application submitted by this company for a digital broadcasting licence. On 20 January this year, the Chief Executive even exercised his discretion to allow the former Secretary for Education and Manpower, Mr Arthur LI, to take up the chairmanship and directorship of this company even though he was not qualified to do so, thus arousing even more queries among the public about whether or not this has any relationship with the incident of renting the property. Was there any transfer of benefits? All these queries and doubts have arisen in the minds of the public. With so many queries, I greatly support and am also grateful to those people who made reports to the Independent Commission Against Corruption (ICAC). The ICAC also opened a file quickly to carry out an investigation and this is the very first time that a Chief Executive is investigated.

Concerning the ICAC investigation of the Chief Executive, I think this is a very correct move because in fact, there are also provisions in law that regulate the Chief Executive. This is not simply a matter of acceptance of advantages. If he only accepts some hospitalities, it may not be possible to convict him according to the law. However, if he accepted the hospitalities for which there are some underlying arrangements, transfer of benefits, corruption or unusual deals, he should absolutely be investigated under the PBO. If there are such elements, the Chief Executive will have breached the law and must be prosecuted. The ICAC definitely must not pull any punches. All along, the ICAC has given us the impression of handling this kind of cases independently and fairly. It must carry out an investigation with strict impartiality and reach a conclusion as soon as possible, then take appropriate actions to rebuild the honest and clean image of the Hong Kong Government.

Just now, I said that I attach great importance to the investigation being carried out by the ICAC. Since the ICAC has to report and answer to the Chief

Executive but the target of this investigation is also the Chief Executive, I even hold that the Chief Executive should temporarily suspend himself from his own duties or take leave during the period of investigation, so that the ICAC would not have the feeling of being watched over by the one at the top and would be able to carry out the investigation impartially.

I absolutely support the investigation being carried out by the ICAC and also hope that it can carry out its investigation and obtain results as soon as possible. Some Honourable colleagues hold that even though the ICAC is now carrying out an investigation, the powers under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) can still be invoked to investigate the conduct and credibility of the Chief Executive, however, I do not subscribe to this view at all. The reason is that in the past, while a law-enforcement agency was conducting an investigation into a criminal offence, we would not establish a select committee to look into the same incident.

If we establish a select committee to investigate the Chief Executive this time around, the subject of inquiry and the witnesses would be identical to those in the investigation conducted by the ICAC. The difference lies in the fact that our inquiry is conducted openly and the persons investigated cannot evade any question asked by the Legislative Council but must answer them and provide information. They are not protected by a core value and the rights that we treasure very much, that is, the person investigated can hire a lawyer, seek legal advice and refrain from mentioning certain matters to avoid inculping himself. Such privileges cannot be exercised in the Legislative Council. In the investigation conducted by the ICAC, the persons investigated are protected by the core value and rights mentioned by me just now, but this is not so in the Legislative Council. If investigations are conducted in parallel, this may be most unfair to the persons investigated. However, it does not mean I hold that no inquiry should be conducted. We are not defending any wrongdoing, only that at this stage, we consider it inappropriate to invoke the powers under the P&P Ordinance to conduct an inquiry.

Therefore, I hope the ICAC can complete its investigation as soon as possible. We can then see if the ICAC will institute any prosecution. If it will not, the Legislative Council must take follow-up action. I have given an account of a number of questions about the Chief Executive voiced by society and the public at large. They must be answered and the system must be improved. In

the days ahead, these tasks require our action and we must undertake them instead of evading them or dragging our feet. However, at this stage, I consider it inappropriate to invoke the powers under the P&P Ordinance to conduct an inquiry in parallel with the investigation being carried out by the ICAC.

One last point, even if the ICAC cannot institute any prosecution, it has the power to refer the relevant investigation to the Secretary for Justice, who can then refer the relevant investigation to the Legislative Council, so that it can consider if the impeachment process under Article 73 of the Basic Law should be activated. Therefore, these tasks and powers are all in our hands, but I consider it not appropriate to invoke the powers under the P&P Ordinance at this stage. Thank you, President.

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

**MR RONNY TONG** (in Cantonese): President, on the questions of whether or not the Chief Executive should be impeached and whether or not the powers under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) should be invoked to investigate the conduct of the Chief Executive, it seems that there are quite a lot of confused views in society and that this is also the case among Honourable colleagues. We are also confused about the matter under discussion now. Therefore, President, first of all, I wish to give a brief account of my views here, so that the public and Honourable colleagues can gain a deeper understanding of what we are actually discussing now.

First of all, President, some Honourable colleagues pointed out that if a quarter of all Members sign in support of a motion, the impeachment mechanism can be activated, so we would be able to state our political stances. In this way, our responsibility as Members can be fulfilled. If Honourable colleagues do not sign in support of the motion, they will have failed to fulfil their responsibility as Legislative Council Members properly.

First, I wish to point out that there are several fallacies in this view. The first one is that under the Basic Law, a motion of the Legislative Council cannot activate any mechanism *per se*. It is only after the motion has been passed by a

two-third majority of Members that the impeachment mechanism can be activated. This is the first fallacy.

Second, or even more importantly, I believe all Honourable colleagues would agree that impeaching the Chief Executive is a very solemn matter. If we do not consider the grounds but activate the impeachment process simply on account of the headlines in the press, I think that not only does such a way of exercising power show little respect for the Chief Executive or the Legislative Council, most importantly, it also shows little respect for the Basic Law. In fact, to impeach or investigate the Chief Executive is a solemn and very important move. Since the Chief Executive is the head or chief of the highest administrative organ of the SAR, we have to handle any allegation directed against him with care. For this reason, I consider it inappropriate to activate the impeachment process without a deep and full understanding of the relevant allegations. Most importantly, we can activate the impeachment process within our term and if there is sufficient evidence or justification, I believe all Honourable colleagues would consider it incumbent upon them to activate the impeachment mechanism. Therefore, the significance of this move does not lie in whether or not we can complete the impeachment process within our term, but in being able to exercise our powers appropriately when impeaching the Chief Executive according to the provisions of the Basic Law.

President, I wish to talk about the second fallacy. It seems that some Honourable colleagues, including Ms Miriam LAU, said in their speeches earlier that the Independent Commission Against Corruption (ICAC) had already launched an investigation into this issue relating to the Chief Executive, and queried why the Legislative Council should intervene. Is this not showing a lack of respect for the investigation of the ICAC? President, this kind of comments was made not just by Ms Miriam LAU alone. In fact, for some time, many people inside and outside the legislature, and even among the general public, have been voicing such views. President, this kind of view also represents actually the second fallacy, since the matters investigated by the Legislative Council are entirely different from those investigated by the ICAC. President, why do I say so? In fact, the provisions of the Basic Law are very clear. We do not need a lawyer to explain them and even an ordinary person can understand them. The salient points of law can even be understood by ordinary people. Article 73(9) of the Basic Law stipulates that if the Chief Executive has committed serious

breach of law or dereliction of duty but refuses to resign, he or she should be impeached by Members.

President, Members may notice that when I mentioned serious breach of law or "dereliction of duty", the word used by me is "or" rather than "and". A serious breach of law is not the same as a suspected breach of law, but is it a breach of the law? Under common law and our judicial system, in fact, there are some very stringent standards with fairly tall thresholds. Simply put, in determining if the Chief Executive has breached the Prevention of Bribery Ordinance (PBO), the fundamental factor is whether or not the Chief Executive has accepted any advantage. At the same time, does the advantage accepted by him bear any relation to the power exercised by him? President, such an explanation may be very simple but whether or not conviction can be successful depends on whether or not the Court accepts the relevant evidence and whether or not the burden of proof can meet the stringent standards prescribed by our criminal law. Even though you may think that according to press reports, he has committed some offences under the PBO, the Secretary for Justice may not institute any prosecution and even if he does, the Chief Executive may not necessarily be convicted. If the Chief Executive is not convicted, does it mean that he can escape the clutches of the law and should not be reprimanded or investigated by the legislature in any way? President, of course, the answer is in the negative. This is because if the serious breach of law and "dereliction of duty" are the same, I would consider the comments made by Ms Miriam LAU may perhaps be somewhat justified. However, precisely because the two are not the same and since the word "or" is used to put two different concepts together, it is possible to move an impeachment motion in both cases. However, what is meant by "dereliction of duty"? Is the onus of proof as stringent as that for serious breach of law? President, we do not have any precedent in this regard, but I dare say since these two concepts are not the same, one of them should be dealt with by the Court and the other should be dealt with politically by the legislature. Therefore, it is up to the legislature to make a decision.

Maybe Members would ask: What is "dereliction of duty"? President, Members would remember that sometimes ..... Members would recognize an elephant when they see one but if they have to describe it, honestly, this may not be that easy. Therefore, is it necessary to set down in detail all conduct considered to be "dereliction of duty" in advance? In fact, this is inappropriate, irrational and impractical. It is necessary for something to have happened

before one can be say, "Needless to say, this is surely 'dereliction of duty.'" or "This does not seem to be 'dereliction of duty'".

However, how can such a judgment be made? Apart from invoking the powers under the P&P Ordinance to conduct an inquiry, may I ask Members here if there is any way in which we can do justice to the Hong Kong public? If there is any, please speak up and I will sit down immediately. If there is no other way, this is a responsibility of Members, so why can we shirk it so easily?

President, coming back to the issue before us, at present, is there any *prima facie* evidence that leads us to believe there may be "dereliction of duty" warranting an in-depth investigation? I think that there obviously is. I will first talk about some conduct that is not so serious, such as taking rides in luxury yachts and private jets, and even receiving a treadmill for free. In fact, all these can be considered "dereliction of duty" because such hospitality or gifts were all provided or offered to the Chief Executive by some tycoons or property developers in Hong Kong. These tycoons and property developers and he ..... I would not say that they are ganging up with each other because such an allegation is not fair to him, but they were indeed coming together. If no investigation is carried out, how can we know the truth?

Why were the cruises in luxury yachts offered to the Chief Executive? Because the Chief Executive had rendered assistance to someone before, or it was hoped that the Chief Executive would render assistance to someone in the future, so a good foundation had to be laid. That means building relationships, does it not? If an investigation is not carried out, how can we know the truth? The same applies to the incident relating to the treadmill. Do not tell me that the amount involved is not very great. Frankly speaking, the amount involved was only \$3,000 and if it were me, I really could not bring myself to do this sort of thing. I would rather not jog and any way, I have no time to jog.

However, all these are not the most important issue. To me, what is the most disquieting is the incident known as "the luxury flat incident" — President, this is not about the luxury property incident relating to a certain Chief Executive candidate but the Chief Executive renting a luxury flat in Shenzhen — throughout the incident, the undisputed facts make me feel very uneasy. First, the Chief Executive said that in 2010, he was interested in the luxury flat concerned and that happened to be the time when the Digital Broadcasting Corporation Hong

Kong Limited was applying for a licence. Why such coincidence? I would like to know whether he became interested in the luxury flat concerned before the company had submitted the application, or afterwards. All these issues need to be investigated.

Second, President, the Chief Executive admitted to signing the tenancy agreement with the landlord in February 2012. President, I think he was very skilful in making this remark. Did that happen before or after 22 February 2012? The date of 22 February was the date on which the luxury flat incident was exposed. Did he sign the agreement prior to that date or did he do so as a cover-up only because the incident had been exposed? We must not forget that the Chief Executive admitted at the same time that his wife had gone to Shenzhen personally to oversee the works in late 2011 and the landlord also admitted to having spent millions of dollars on decorating the property to meet the requirements and facilities requested by the Chief Executive and his wife. In that case, President, I would then ask this question: Which landlord in the world would be willing to spend so much money on such exquisite decoration without asking the tenant to sign a tenancy agreement first?

The most important point is: Was the rent paid according to the market rate or was this made up only after the matter had been exposed? President, no one knows the truth of this matter. Honestly, there have been many rumours, with some people saying that the monthly rent was \$30,000 and others saying that the monthly rent was \$40,000. Some press reports said that both were incorrect and that the market rate was \$80,000 to \$100,000 monthly. It so happened that he also made public a tenancy agreement which says that the monthly rent is \$80,000. President, if we do not look into these issues and doubts thoroughly, this may be very unfair to Chief Executive Donald TSANG. Similarly, had the powers under the P&P Ordinance not been invoked to carry out an investigation into the future Chief Executive, Mr LEUNG Chun-ying, this could also have been extremely unfair to him.

More importantly, if no investigation is carried out, this may be unfair to the 3 million Hong Kong residents — sorry, it should be 7 million. I was thinking about the 3 million voters but actually, this issue has nothing to do with voters but has a close bearing on all Hong Kong people. Not carrying out any investigation would be unfair to the 7 million Hong Kong people. President, as Members, do we have to make a politically correct decision in this regard?

Should we say that we had better not foment so much trouble because after all, he is the Chief Executive? Or should we perform our duties conscientiously? President, doubtless we have no choice. If Members are responsible, they must vote in favour of this motion today. Thank you, President.

**MR KAM NAI-WAI** (in Cantonese): President, some time ago, I joined a meal gathering. Members all know that nowadays, joining a meal gathering is a very sensitive matter. Although no one with triad connections was present at the meal gathering, there was a friend belonging to the disciplined forces.

This meal gathering took place after the "hospitality-gate" incident involving the Chief Executive had come to light, so the discussion touched on the issue of the Chief Executive accepting such hospitality. A friend belonging to the disciplined forces said to me in the meal gathering, "KAM Nai-wai, in fact, as civil servants, we all know the requirements on the acceptance of hospitality very well and we have to tread very carefully in compliance.". The relevant requirements are made fully public. One needs only browse the website of the Civil Service Bureau to see what they are. I did not do so on that day but subsequently, I did. In fact, many Honourable colleagues also said earlier — I believe the public may not be very clear about this but civil servants are — subsequently, I learnt that there is actually a document entitled "Acceptance of Advantages (Chief Executive) Permission Notice 2010", which was issued by the Chief Executive for the purpose of implementing section 3 of the Prevention of Bribery Ordinance (PBO). Many members of the public may not have heard about it until now. Section 3 of the PBO is not applicable to the Chief Executive but the Chief Executive issued a notice on the acceptance of advantages to impose regulation on all civil servants.

Just now, some Honourable colleagues also mentioned a couple of sections therein in brief and I think the public may also be very concerned about this notice. The notice states, "If a prescribed officer wishes to accept any gift, discount or loan of money, he must, before or as soon as is reasonably possible after being offered or presented with the gift, discount, or loan of money, seek the permission of the approving authority to accept it.". In other words, if you are offered any gift, discount or loan of money, you should seek the permission of the approving authority as soon as possible, that is, the approval of the relevant

authority in the Government. The advantages accepted may come from relations, tradesmen, close personal friends, other persons, and so on. This aspect is also regulated. The notice states clearly what relations mean. Spouses and siblings are all considered relations. Tradesmen and even close personal friends ..... just now, I heard Ms Miriam LAU say that as a matter of fact, if a close personal friend offers a loan of money to a civil servant, the amount must not exceed \$3,000 on any one occasion and must be repaid within 30 days. It is only now that I found such details are set down clearly. Maybe many members of the public are not aware that civil servants are actually bound by so many detailed restrictions. What the notice refers to is close personal friends but if someone is not your close personal friend, that is, if someone is not your friend but someone whom you are not acquainted with and he wants to extend a loan of money to you all of a sudden, he can only offer you a loan of \$1,500 instead of \$3,000. Moreover, you must also repay it within 30 days, so the requirements are very clear.

In addition, there is also a provision in the notice on the acceptance of fares, that is, taking rides in planes, and so on. If a prescribed officer accepts air, sea or overland passage — the instances of the Chief Executive accepting rides in yachts and jets fit nicely into this description — he must, before or as soon as is reasonably possible after being offered the passage or presented with the tickets or vouchers to which the passage relates, seek the permission of the people concerned. The requirement is very clear. This notice specifies in elaborate detail ..... I downloaded five pages just now. It spells out in elaborate detail the requirements relating to the acceptance of advantages under section 3 of the PBO.

However, it turns out that these regulations ..... I do not quite understand why, when the PBO was discussed in the Legislative Council back then, it was laid down that section 3 would not be applicable to the Chief Executive. When the Chief Executive drew up the clauses on granting approval to other people, he went to such great details, stating whether the amount of loan should be \$1,500 or \$3,000 and in how many days the loan should be repaid, and the acceptance of air, sea or overland passage also requires the approval of superiors. But why is it not necessary for the Chief Executive to comply with them? In the meal gathering mentioned by me just now, this friend belonging to the disciplined forces was really indignant. The Chief Executive himself issued a notice and although he is not bound by it, at least, he ought to know that he should comply

with it. However, these incidents of accepting hospitality occurred all the same. Just now, Mr Paul CHAN said that apart from the regulation of civil servants, there is also a set of requirements for the regulation of accountability officials. I am not going to read out the clauses one by one. I believe accountability officials ought to know them quite well.

Unfortunately, the incidents have happened and all of us can see that in the incidents ..... many people say that perhaps the Chief Executive was only being greedy for petty benefits and that different people may have different views. Some Honourable colleagues also said that the Independent Commission Against Corruption (ICAC) is now carrying out an investigation. Since a law-enforcement agency is now conducting an investigation, we should not conduct this inquiry. Although I have joined the Legislative Council not for a long time, earlier on, I also heard Dr Raymond HO say — as he was in the select committee looking into the substandard piling works incident, and I do not know if I am correct, but please correct me if I am wrong — that while the Legislative Council was investigating the substandard piling works incident, the relevant criminal investigation was also being carried out, yet the select committee of the Legislative Council was also conducting an inquiry at the same time.

In fact, is it true that no such precedent can be found in the Legislative Council? I hope some more senior Members can talk about this aspect but no matter how, if a relevant law-enforcement agency is carrying out an investigation, is it true that we cannot conduct an inquiry at the same time? Even so, I also said just now that since the Chief Executive is not subject to section 3 of the PBO at present, law-enforcement agencies can actually do nothing. On the offers of hospitality, I also said just now that such law-enforcement agencies as the ICAC cannot do anything at all. Therefore, one of the focuses of the inquiry by the Legislative Council would be to look at ..... maybe different Honourable colleagues ..... I heard Mr Ronny TONG say just now that he believed the "TSANG's mansion" in Shenzhen was an important case and I believe this is actually one of the areas that we want to learn and know more about.

I hope very much that this inquiry can be conducted, so that justice can be done to Hong Kong. Members can see that in some press reports yesterday, it was said that the results of the survey on the perceptions regarding corruption conducted by the Political and Economic Risk Consultancy Limited showed that our ranking has fallen from the top three places, where Hong Kong has been for

many years, to the fifth. This survey also says — I hope that later on, when the Secretary or the Chief Secretary for Administration give their responses they can state whether or not the results of this survey are attributable to the incidents involving the Chief Executive ..... I found these press reports say that this is related to the incidents involving the Chief Executive. I hope we can let Hong Kong people and people all over the world see that there is a clean Government in Hong Kong. If the Legislative Council can conduct an inquiry, if the Chief Executive has indeed violated the regulations or done anything wrong and if we can draw an impartial conclusion, I believe this will enable the international community and Hong Kong society to rebuild a clean system. Even if someone has breached the regulations, there is still a system of checks and balances in the Government and the Legislative Council can still perform its function of exercising checks and balances. No matter which official has made mistakes, the public can still rebuild their confidence, which is very important.

I so submit.

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

**MISS TANYA CHAN** (in Cantonese): President, today, we are discussing the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) and this reminds me of the special Chief Executive's Question and Answer Session. Originally, he did not say he would come here and we also had had discussions and debates prior to that. In the end, he came here and many members of the public could watch in news reports or the live broadcast how the Chief Executive apologized to all the people in Hong Kong on that day. After hearing that, many people said that contrary to their expectations, he actually apologized. Or, as Mr Paul CHAN said, given that he is so headstrong and self-opinionated, it should have been well-nigh impossible for him to tender an apology so all of us should forgive him, so on, so forth.

I am not trying to take advantage of the position he is in or jeer at him. Of course, I expected his apology to be sincere and coming from the bottom of his heart, but you only have to note his opening remarks in the Question and Answer Session to know clearly for what reason he tendered the apology. He did not apologize for having done something wrong. Certainly, he did not admit to any

wrongdoing, President, he has never admitted to any wrongdoing. What did he say? I found a segment of his remarks very jarring to the ear. He said, "I admit that my 45 years of experience in public service is an asset for me. However, such experience is also an encumbrance, one which has created "blind spots" that confine me to my own belief and make me overlook the fact that as times change, public expectations have also changed and people have turned more demanding towards public officers.". What is all this? This is shirking responsibility. This is precisely shirking responsibility. I think he is not offering the excuse of not being able to see where the problem lies, rather, he is citing the excuse that other people have changed. The problem lies in other people since they have changed too fast, so he shirked the responsibility.

What else did he say? Before his apology, of course, he made some opening remarks. He said, "The series of events have aroused the concern of the public, the mass media, the public opinions sector, Honourable Members and my civil service colleagues. The events have also shaken people's confidence in Hong Kong's system. For this reason, I must tender a serious apology to the public.". President, such is his apology. This is the ground for his apology. What is it? It is a refusal to admit to any wrongdoing. Another Chief Executive candidate suddenly comes to mind. He always says, "I did not, I did not, I did not.". What he said was: I did not do anything wrong but since I have aroused everyone's concern and shaken the confidence of the public in the system, I apologize.

In fact, he came here to bow and apologize. We can all see if there was any tear in those 30 seconds. It is not always necessary to shed tears to show sincerity, but if we look at what was said in the apology and the ground for the apology, we would know that the apology was not sincere at all. I believe that to us, the most infuriating point must be, as civil servants said, that such things could not possibly have happened and that they have brought shame upon the whole Civil Service. Of course, Members may say that the matter has not yet been thoroughly investigated, so is it not rather unfair to jump to a conclusion so quickly? Certainly, for the time being, what we can read is only some press reports. As many Honourable colleagues pointed out earlier, although the reports do not give very detailed accounts, there are actually a lot of doubts. As I said in my speech on the last occasion, in fact, if we invoke the powers under the P&P Ordinance, the most important thing is that we can do justice to Donald TSANG, the Chief Executive. If he is indeed innocent, he can come clean and

tell us all the facts. There should not be any major problem, anything that needs to be concealed or any prevarication. Moreover, civil servants are really furious.

Just now, many Honourable colleagues said, and I have also seen for myself many times and found out in my chats with friends in the Civil Service, that civil servants are very leery of arousing suspicions. Moreover, I believe that, as Donald TSANG himself said, given his 45 years of experience in the Civil Service, he has a better idea than anyone else of the entire civil service system and the codes. Just now, Mr KAM Nai-wai also pointed out that this set of rules was written and issued by the Chief Executive, so he knows it like the back of his hand. However, the set of rules for himself is only known to heaven and earth and himself but no one else. Indeed, no one else knows about it and it is only in his heart and in his mind, or as Ms Emily LAU said, it is "a divine book without words".

I also remember clearly that just now, Dr PAN Pey-chyou asked what the best thing about Hong Kong was. It was having laws to follow and all stipulations are set down for our compliance. However, does it mean that without any stipulation, there is no need to comply with anything? Can one do whatever mischief one likes? He had been a civil servant for such a long time, so he ought to know the codes very clearly, and parts of the codes or the stipulations are based on section 3 of the ordinance enforced by the ICAC. They were also issued by him, so I believe he should be very clear about the details or principles of the code. However, for himself alone, there is no need for any standard, there is no need for any principle and there is no need for any stipulation. Therefore, everything is just "a divine book without words".

President, the numerous incidents of late, be it the incidents involving the Chief Executive or those in the Chief Executive Election, have become the inspiration for a great deal of creative activities. I am not going to sing here, so Members need not worry. I learnt that yesterday, Mr CHEUNG Kwok-che sang the song "Bless you" for two minutes. I am not going to sing here, President, so you do not have to worry, but I wish to tell Members that recently, I have heard a song with some rather interesting lyrics. This song is sung by Kolor. The name is not "Colour", rather, it is an independent band in Hong Kong called "Kolor". The lyricist is Patrick LEUNG and I have to declare that I know him.

Now, I am going to read out several stanzas from the lyrics which I find very interesting. The beginning of the lyrics is, "In the path filled with glittering gold, who would have expected to be caught in a trap at the end, after the shoes are well worn? The loser has been preordained but little did one expect to find black hands everywhere. Uncertainties in gambling bring excitement and cause you to break out of step. Then, your life would be fraught with greed and retribution. Who can foretell the covered pips? Big or small, just like the toss of a coin. The metal ball is dancing wildly in the roulette. A wrong judgment would cost you dear. You might get rich all of a sudden and be enslaved in the end. One wrong move will cause you to lose the whole game and you get what you have bargained for. You have lost all your stakes and made a tearful announcement. All the meticulous calculations went wrong. What can be done? Pray in a café, you are obsessed and gamble once more. Say not that declarations are not needed for you still have to make them after all."

The name of this song is called "賭博默示錄" (The Book of Revelation through Gambling). As I listened, I could not help but respond by smiling wryly and knowingly. I wonder if the "報" in "不需報，終需報" (Say not that declarations are not needed for you still have to make them after all) means "申報" (to declare) or "報應" (retribution).

President, originally, we should not make a judgment so quickly, but to me or the general public, a brief Chief Executive's Question and Answer Session is not enough to address a series of views or concerns that we have in view of a series of media reports. We think that at this moment, the best and most effective course of action is to invoke the powers under the P&P Ordinance to establish a committee to look into the circumstances of the whole incident.

Of course, I am now taking part in the inquiry into the "West Kowloon-gate" incident, that is, the work of the committee on the declaration of interests made by Mr LEUNG Chun-ying. We fully appreciate the tight time frame, but we also deeply appreciate the fact that the public really should have the right to know. Establishing a committee to conduct an inquiry by virtue of the P&P Ordinance is actually the most open and transparent approach that would enable all members of the Hong Kong public to look at the incidents or all the circumstances of the incidents. No matter who comes here to give an account, this is only an approach or a platform. When we have got hold of the

information and various witnesses have come here to give evidence and respond to the follow-up questions asked by Members — perhaps we should not call this cross-examination but asking follow-up questions — or he is given the opportunities to give further explanations, this is actually the best platform for the Chief Executive to give an account to the public.

Although there is little time left in Mr Donald TSANG's term, this opportunity will actually enable the Hong Kong public and him to be treated fairly and what I hope all the more is that — of course, we understand that at present, the former Chief Justice of the Court of Final appeal, Mr Andrew LI, has formed a five-member team to conduct a review. However, what we hope for all the more is that the Chief Executive can set a good example, that when there are questions, when he has to come to the Legislative Council to give evidence, he would not be afraid of doing so and that he would be prepared to give a proper account of everything to the public. This is also our basic requirement on the conduct of the future Chief Executive.

I hope very much that Honourable colleagues can support Mr LEE Wing-tat's motion as well as Ms Cyd HO's amendment later on.

I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you may now speak on Ms Cyd HO's amendment.

**MR LEE WING-TAT** (in Cantonese): President, I have no particular objection to Ms Cyd HO's amendment. Basically, her amendment only deals with the issue by another approach. According to my approach, we will first obtain information for discussion by the Panel on Constitutional Affairs so that the time for setting up a select committee can be saved. In fact, lots of doubts in our minds can be dispelled if we can gain access to such information. The

Democratic Party and I support Ms Cyd HO's amendment. Thank you, President.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I hope Honourable Members can give unbiased and comprehensive consideration to the motion proposed today by Mr LEE Wing-tat to investigate the Chief Executive as well as Ms Cyd HO's amendment.

Since assuming office in 2005, the incumbent Chief Executive has been striving to promote development in Hong Kong on all fronts. When the current-term Government was established in 2007, he proposed the concept of "Progressive Development" in promoting economic development through infrastructure development, increasing employment and improving people's livelihood.

While the Chief Executive himself and colleagues in the Government are prepared to listen in a humble manner to any criticisms or views made by Honourable Members on the Chief Executive, we hope Members will appreciate that, under the leadership of the Chief Executive, the current-term Government has fulfilled his electoral platform and striven for progress of Hong Kong society. Examples include:

- on the economy, the Chief Executive fended off the financial tsunami in 2009 and has maintained Hong Kong's competitive edge and increased the employment size by 220 000 jobs;
- on housing policies, he has put forward the proposals of launching the My Home Purchase Plan, resuming the construction of Home Ownership Scheme flats and enacting legislation on the regulation of the sales of first-hand residential properties; and
- on assisting the grassroots, he has proposed a minimum wage, the Work Incentive Transport Subsidy, the Elderly Health Care Voucher, concessionary fares, and so on.

All these belong to the economic, social or livelihood portfolios.

As regards constitutional development, with the support of Members of the Legislative Council, the Chief Executive succeeded in 2007 in lobbying the Central Authorities for the drawing up of a timetable for universal suffrage and succeeded in 2010 in securing the support of the Legislative Council for putting forward the "one-person-two-votes" proposal, which is expected to be implemented this year to expand the democratic element of our electoral system.

President, I am citing these examples in the hope that Members can see for themselves that the administration of Chief Executive Donald TSANG over the years is actually very comprehensive. On the one hand, he wholeheartedly implements policies for Hong Kong on the social, economic and livelihood fronts, and on the other hand, he ensures that the bearer of the office of the Chief Executive must be a person of integrity. In the Policy Address announced in October 2005, the incumbent Chief Executive made it clear that he would accept essential regulation on bribery prevention. The Prevention of Bribery Ordinance (PBO) amended later in 2008 has also provided for comprehensive regulation and penalties in respect of bribery or corruption offences committed by the Chief Executive. The major amendments include:

- extending sections 4, 5 and 10 of the PBO to cover the Chief Executive for the purpose of imposing restrictions on the Chief Executive in respect of any bribery acts of solicitation and acceptance of advantage and possession of unexplained property; and
- adding new section 31AA to provide that when, upon investigation by the Commissioner of the Independent Commission Against Corruption (the Commissioner), there is reason to suspect that the Chief Executive may have committed an offence under the PBO, the Commissioner may refer the matter to the Secretary for Justice. Where, as a result of such referral, the Secretary for Justice has reason to suspect that the Chief Executive may have committed an offence under the PBO, he may refer the matter to the Legislative Council for it to consider whether to take any follow-up action according to the impeachment mechanism prescribed in Article 73(9) of the Basic Law.

Hence, this new provision is meant to regulate the Chief Executive in respect of prevention of corruption. As regards the question raised repeatedly by Mr KAM Nai-wai and several Members about why section 3 of the PBO is not applicable to the Chief Executive, we decided, after studying and considering in detail whether the Chief Executive should be subject to section 3 of the PBO, when the PBO was amended that it was inappropriate to introduce such amendment because section 3 of the PBO prescribes that any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence, whereas prescribed officers include principal officials, judicial officers, civil servants, and so on.

Section 3 applies only to persons over whom the Chief Executive has authority. The offence prescribed in this provision pinpoints merely the solicitation or acceptance of advantages without seeking the Chief Executive's permission. Nevertheless, as the Chief Executive can hardly grant permission to himself for the purpose of solicitation or acceptance of advantages, it is structurally impossible to make the relevant offence applicable to the Chief Executive.

Furthermore, section 3 is related to a principal-agent relationship. Since the Chief Executive enjoys a unique constitutional status under the Basic Law, there is no suitable principal in the SAR who can grant permission to the Chief Executive for the purpose of solicitation or acceptance of advantages. Hence, it was decided back then that section 3 could hardly be made applicable to the Chief Executive.

Nevertheless, we believe the panel headed by Mr Andrew LI, former Chief Justice of the Court of Final Appeal (CFA), can study afresh whether there is any way to make section 3 applicable to the Chief Executive.

President, the PBO aside, the Chief Executive is also regulated by other anti-corruption measures, including:

- under Article 47 of the Basic Law, the Chief Executive must be a person of integrity and dedicated to his own duties. Furthermore, the Chief Executive is required to declare his assets for record purposes to the Chief Justice of the CFA when he assumes office;

- the Chief Executive is regulated by the common law offence of bribery, and any person who offers bribes to the Chief Executive shall be guilty of an offence; and
- the Chief Executive is also regulated under the impeachment procedure prescribed in Article 73(9) of the Basic Law, as mentioned earlier. Meanwhile, he is monitored by the media and the public, too.

With respect to matters concerning the investigation on the Chief Executive for any suspected or alleged offence under the PBO, section 12(b)(ii) of the ICAC Ordinance specifies that the Commissioner is required to discharge his duties to investigate any offences suspected or alleged to have been committed in contravention of the Ordinance — which refers to the PBO.

Hence, the Commissioner will shoulder and discharge this statutory duty of investigating bribery acts committed by any person (including the Chief Executive). The independence of the ICAC is fully protected by the Basic Law and the ICAC Ordinance.

Furthermore, the ICAC is required to report to the independent Operations Review Committee on all the results of cases investigated by the ICAC for monitoring purposes to ensure that all corruption complaints (including those against the Chief Executive) are properly dealt with.

Concerning the discussions on the recent allegations of the acceptance of advantages and hospitality by the Chief Executive, the Secretary for Constitutional and Mainland Affairs already elaborated in detail in his opening speech earlier, that the Chief Executive has, through various channels — including attending the special Chief Executive's Question and Answer Session convened by the Legislative Council on 1 March — explained the entire incident to the public in the hope of addressing their concerns. The Chief Executive has also made a public commitment that, should an investigation be launched by the law-enforcement agency into the aforesaid incident, he will provide full support with absolutely no interference.

On the establishment of a mechanism, the Secretariat of the Independent Review Committee on the Prevention and Handling of Potential Conflicts of

Interests, headed by Mr Andrew LI, former Chief Justice of the CFA, has already started a full review of the existing regulatory frameworks and procedures applicable to the Chief Executive, Non-Official Members of the Executive Council and politically appointed officials respectively, and with reference to the aforesaid review, submit a report and put forward proposals to the Chief Executive within three months on measures to be taken to improve the existing regulatory frameworks and procedures. We will fully co-operate with the Independent Review Committee in examining whether there is any room for strengthening the existing system.

From this, it can be seen that the Chief Executive has already made an active, serious and comprehensive response to the concerns expressed in society recently. While efforts are being made by all the relevant parties, we consider it unnecessary for the Legislative Council to conduct yet another investigation under the P&P Ordinance.

With these remarks, President, I hope Members will vote against the original motion and the amendment.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I do not need to make further remarks.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Ms Cyd HO to Mr LEE Wing-tat's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Miss Tanya CHAN rose to claim a division.

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

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

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

Functional Constituencies:

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

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr CHAN Kin-por and Mr IP Kwok-him voted against the amendment.

Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, 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, Dr Priscilla LEUNG, 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 TAM Yiu-chung and Mr CHAN Hak-kan voted against the amendment.

Mr WONG Kwok-hing abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, five were in favour of the amendment, 17 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 20 were in favour of the amendment, three against it and one abstained. 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.

**MS MIRIAM LAU** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Proposed resolution under the Legislative Council (Powers and Privileges) Ordinance", this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Proposed resolution under the Legislative Council (Powers and Privileges) Ordinance", this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now call upon Mr LEE Wing-tat to reply. This debate will come to a close after Mr LEE Wing-tat has replied.

**MR LEE WING-TAT** (in Cantonese): President, how much time do I have for my reply?

**PRESIDENT** (in Cantonese): You have 15 minutes for your reply.

**MR LEE WING-TAT** (in Cantonese): So much? I thought I had only about 10 to 20 seconds left, and so I am not prepared.

President, I must respond to a couple of issues. Let me begin with the Chief Secretary's speech. Just now, the Chief Secretary stated that the Chief Executive had given a comprehensive response in respect of the "hospitality-gate" incident. I wonder if he has gone over the top in learning from LEUNG Chun-ying to give expressions new definitions. It is a really miserable world, for every expression has a new definition now. What does "comprehensive" mean? At least, all information must be disclosed before the expression "comprehensive" can be used. Furthermore, the Chief Executive must take

questions and give an explanation upon request before his response can be considered "comprehensive". How can the expression "comprehensive" be used when even the first step has yet to be taken?

To date, from all the previous news reports and Legislative Council documents, as well as all the records of the Chief Executive's Question and Answer Sessions, we can still not learn anything about the several trips made by the Chief Executive, including information about his yacht and private jet trips, stays in deluxe hotels, and the businessmen and property developers with whom he was associated and travelled. All this information is not known to us. Even though you may know about it, all of us are kept in the dark. So, how can the response be described as "comprehensive"?

Second, among the numerous queries raised in the debate today, one concerns a question raised during a Question and Answer Session about whether the Chief Executive had stipulated any written code for the regulation of his conduct, given the extremely clear code prescribed for the regulation of civil servants. Initially, the Chief Executive evaded this question. Later, in reply to a similar question raised in a letter addressed to the Chief Executive by Mr Andrew LI, Chairman of the Independent Review Committee on the Prevention and Handling of Potential Conflicts of Interests, the Chief Executive's Office said that there was no written code in this respect. I wonder if the Chief Executive is the closest and special friend of the Chief Executive. Nevertheless, no one knows anything about the Chief Executive's code, because it is not expressly stipulated. No one quite understands if the Chief Executive is required to make declaration should he receive hospitality from certain persons, what level of hospitality is considered inappropriate and what sort of hospitality will embarrass the Government and civil servants. The Chief Executive may have told you, but we have no idea at all.

The code, which is in the heart of the Chief Executive, can be described as "a divine book without words". I really do not know what to do. Let us take a look at Secretary Denise YUE, who is sitting at the back. Her Civil Service Bureau must act according to the code of practice under all circumstances. I have learnt from the probe into the LEUNG Chin-man incident that one of the regulatory provisions requires that a civil servant should not do anything that may put him or her in an embarrassing position. Chief Secretary, it may not be an illegal act; indeed, not only illegal acts will be investigated. As senior civil

servants, Bureau Directors, Secretaries of Departments, and even the Chief Executive, there are a lot of things they do not necessarily have to do even though they are legal.

For instance, if the Chief Executive persists in making frequent private contacts, such as dining, going to concerts, taking overseas trips on a yacht or a private jet, with a certain businessman or property developer not just once, but on several occasions, how will the public feel even though these contacts are not illegal? Why should the Chief Executive maintain such an intimate relationship with a couple of businessmen and property developers? As I pointed out in my speech earlier, should Secretary Carrie LAM or Secretary Eva CHENG take a ride on a yacht belonging to a property developer only once, what conclusion will the public draw? They may conclude that the two Secretaries may have engaged in transfer of benefits or arranged for deferred rewards, or are suspected of being biased in favour of property developers in formulating land and housing policies. Having said that, as I pointed out in my speech earlier, I know that they have absolutely not engaged in such acts. In fact, I have great respect for them. Despite our frequent arguments and occasional disputes, I have full trust in their integrity and conduct.

This demonstrates precisely the public's expectation for the conduct and integrity of people in power, and no legal issues whatsoever are involved. Earlier, the Chief Secretary spent seven or eight minutes explaining that the ICAC would conduct an investigation into this matter. I have already made it clear in my speech that I have no objection to the investigation conducted by the ICAC. I hope the Chief Secretary has heard me. Regarding the probe being conducted by the ICAC into this matter, I have no doubt at all because it is conducted according to the law. Neither do we have any objection. The investigation work might as well continue. Nevertheless, it is the ICAC's own matter. A committee set up by the Legislative Council to conduct an investigation is aimed at investigating certain code of conduct outside the scope of criminal prosecution, such as integrity, public expectations, whether the Chief Executive's conduct is right or wrong, and so on, in the hope of reaching a conclusion or judgment. This investigation and the one conducted by the ICAC are two completely different issues.

Let me answer the question raised by Dr PAN Pey-chyau here as well. Although I have made a response on several occasions, he is still not listening.

Let me repeat, one more time, that the investigation conducted by the ICAC is targeted at criminal prosecution. Dr PAN, please stop comparing it to the Cultural Revolution. I have also used this point to rebuke Gordon WU before. Can an investigation be likened to the Cultural Revolution? Were there any genuine investigations during the Cultural Revolution? There was no need for any genuine investigations during the Cultural Revolution, buddy. So long as one was presumed guilty, he or she had to be punished with "kneeling on glass" or "wearing tall hats". Even DENG Xiaoping had been treated in this manner. Worse still, his children had their legs injured as a result of jumping from a height after being "investigated". I believe Dr PAN must have studied Chinese history before. Moreover, I have some respect for doctors. Please do not substantially lower the standard of your speech to far below the level expected of a doctor. An investigation conducted by the Legislative Council and those conducted during the Cultural Revolution are completely different. We emphasize evidence and rules, and information is our basis. Furthermore, we will not draw any conclusion before asking questions. As everyone knows, a committee set up by the Legislative Council will follow this investigation procedure.

President, regardless of the decision today, this incident has definitely made history, making it known to the world that we have extremely high expectation for every accountability official, every civil servant, every public officer, and clean government in Hong Kong. No one should apply his own standard to the people's expectation for clean government, and this is precisely the mistake made by the Chief Executive in believing that the world is still the same as what he has in his mind.

President, in this debate, representatives from several political parties, including Ms Miriam LAU and Mr IP Kwok-him, have put forward the same point, that we should not conduct an investigation since the ICAC has already launched one. In fact, such a remark, which is quite biased, is typical of the royalists. The one conducted by the ICAC is a criminal investigation. I do not see any reasons why the Legislative Council should not be allowed to invoke the Legislative Council (Powers and Privileges) Ordinance to obtain information.

Are we not allowed to obtain information? Are we not allowed to find out whom the Chief Executive met on the several occasions when he received hospitality from others? Are we not allowed to take a look at the tenancy agreement signed between the Chief Executive and the owner of the housing

estate in Shenzhen? Political parties often stress the importance of supporting an open, fair and impartial system. But I often find that, despite their beautiful rhetoric, carefully chosen words, and persuasiveness, every Member of this Council will expose his or her weakness when being asked about his or her intention in detail, as the Chief Executive candidates do.

If the principle of openness, fairness and impartiality is taken seriously, why can the public not have the right to know the entire incident? Why can we not obtain the information even if an investigation is not conducted? Although some information was provided when the deputy chairman of the Democratic Party, Ms Emily LAU, wrote to the Chief Executive's Office to obtain information, there was no response to the questions raised concerning other areas. Can this be considered a comprehensive disclosure of information? Can those political parties opposing my proposal tell me whether they know more than I do, and can they answer the questions raised by me?

If it is believed that society should allow no compromise in maintaining cleanliness, then a lax standard should not be imposed on Donald TSANG on the ground that he is the Chief Executive. I have once pointed out in this Chamber that persons in possession of more power should be subject to more stringent monitoring because of their powers. As for ordinary people, they can sometimes be treated less stringently because they have no power and influence. In contrast, people with power must face very stringent vetting and give all sorts of accounts, or else they should not enter this hot kitchen to participate in political activities.

President, I can only envisage that this matter will not vanish in silence because of this motion being negated, as the royalist camp has hoped for. First of all, every member of the public has a rule in their heart. When political parties frequently refer to fairness and impartiality, the people will evaluate with the rule in their heart whether the actual behaviour of these political parties answers their views. Furthermore, I believe public opinion will continue to ferment by questioning all political parties, especially those participating in direct elections, why they do not insist on obtaining information and conducting an investigation. Of course, as the incident continues to unfold, I believe Hong Kong people will continue to make more requests in debates.

President, I hope all colleagues can think clearly at this final juncture, when the Chief Executive is apparently suspected of misconduct or there are allegations of his damaging the image of his accountable team because of his misconduct, whether the Legislative Council should make the brave decision of setting up a relevant committee or authorizing the committee already set up to, as with my proposed authorization of the Panel on Constitutional Affairs, exercise powers to mandate the person involved to at least produce the relevant information. I believe the public at large has extremely high expectations on this. I also hope Members can put aside prejudices among political parties and cast the right vote for the cleanliness and impartiality of Hong Kong society.

Thank you, President.

**MS MIRIAM LAU** (in Cantonese): I wish to request Mr LEE Wing-tat to clarify his motion. Mr LEE Wing-tat has repeatedly pointed out that his motion seeks to obtain information only. But after checking the wordings of his motion, I found that it does not seek to obtain information only. Could Mr LEE Wing-tat please clarify why he has reiterated time and again that he is only proposing to obtain information?

**PRESIDENT** (in Cantonese): Mr LEE, are you prepared to make such clarification?

**MR LEE WING-TAT** (in Cantonese): President, I am prepared to do so. Any authorized select committee or committee has its own procedure. I am sure that my approach is appropriate because according to my motion, an existing committee, which is the Panel on Constitutional Affairs, will be authorized in the first place so that time will not be wasted on the setting up of a separate committee. Second, I believe the procedure must start with a request for information. As to what further action to be taken after such information has been obtained, it should be decided by the Panel. Thank you, President.

**MS MIRIAM LAU** (in Cantonese): President, may I ask Mr LEE to clarify whether the wordings of his motion are restricted to "a request for information"?

**PRESIDENT** (in Cantonese): Mr LEE, do you have anything to add?

**MR LEE WING-TAT** (in Cantonese): President, I do not have anything to add.

**PRESIDENT** (in Cantonese): The wording of the motion proposed by Mr LEE Wing-tat is set out clearly on the Agenda.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEE Wing-tat be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE, Mr Paul CHAN, Mr CHEUNG Kwok-che and Mr Paul TSE voted for the motion.

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr CHAN Kin-por and Mr IP Kwok-him voted against the motion.

Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, 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, Dr Priscilla LEUNG, 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 motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung and Mr CHAN Hak-kan voted against the motion.

Mr WONG Kwok-hing abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, six were in favour of the motion, 17 against it

and three abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 20 were in favour of the motion, four against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 28 March 2012.

*Adjourned accordingly at six minutes to Five o'clock.*